



IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT  
OF PENNSYLVANIA

\* \* \* \* \*

ARA KIMBROUGH, \*

Plaintiff \* Case No.

vs. \* 2:24-cv-04470-KSM

BUCKS COUNTY, et \*

al., \*

Defendants \*

\* \* \* \* \*

DEPOSITION OF

DAVID KRATZ

February 12, 2025

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DEPOSITION

OF

DAVID KRATZ, taken on behalf of the  
Plaintiff herein, pursuant to the  
Rules of Civil Procedure, taken before  
me, the undersigned, Emma Edwards, a  
Court Reporter and Notary Public in  
and for the Commonwealth of  
Pennsylvania, Via Zoom, on Wednesday,  
February 12, 2025 beginning at 10:04  
a.m.

A P P E A R A N C E S

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S T I P U L A T I O N

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(It is hereby stipulated and agreed by  
and between counsel for the respective  
parties that reading, signing,  
sealing, certification and filing are  
not waived.)

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P R O C E E D I N G S

-----

ATTORNEY MANSOUR:

So before we get  
started, I guess we'll just put  
the usual stipulations on the  
record, that all objections,  
except as to form a privilege,  
will be reserved for the time  
of trial.

ATTORNEY GRIESER:

That's right. And my  
client reserves the right to  
review the deposition  
transcript to make any edits he  
thinks he needs.

ATTORNEY MANSOUR:



1                   So whenever you're  
2                   ready, Ms. Court Reporter you  
3                   can swear in the witness.

4                   ---

5                   DAVID KRATZ,  
6                   CALLED AS A WITNESS IN THE FOLLOWING  
7                   PROCEEDING, AND HAVING FIRST BEEN DULY  
8                   SWORN, TESTIFIED AND SAID AS FOLLOWS:

9                   ---

10                  COURT REPORTER:

11                  Thank you.

12                  ---

13                  EXAMINATION

14                  ---

15                  BY ATTORNEY MANSOUR:

16                  Q.        Good morning, Mr. Kratz. My  
17                  name is William Mansour. I am the  
18                  attorney representing Ara Kimbrough  
19                  and the lawsuit that he has filed  
20                  against Bucks County, yourself, Lauren  
21                  Smith and Shea Randolph in the Eastern  
22                  District of Pennsylvania.

23                  We are here to take your  
24                  deposition in that case. Do you  
25                  understand that?

1 A. I do.

2 Q. Before we get started, I do  
3 want to go over a few instructions  
4 about how the deposition is going to  
5 proceed, just to make sure that we're  
6 both on the same page.

7 Okay?

8 A. Okay.

9 Q. So the first rule that I want  
10 to emphasize, probably the most  
11 important rule, is that, as you can  
12 see, we have a court reporter here  
13 today who is taking down everything  
14 that is said during the course of this  
15 deposition. And so it is important  
16 that your responses to my questions be  
17 verbal.

18 Do you understand that?

19 A. I do.

20 Q. So no nodding of the head,  
21 shaking of the head, shrugging of the  
22 shoulders. Things like uh-huh, uh-huh  
23 don't come across very well on the  
24 record. So I just need you to make  
25 sure that you respond to my questions

1 with words.

2 Okay?

3 A. Okay.

4 Q. If you don't understand a  
5 question that I ask, please let me  
6 know, and I will be happy to either  
7 repeat it or rephrase it if necessary.  
8 You understand that?

9 A. Okay.

10 Yep, I do. Thank you.

11 Q. If I ask you a question and you  
12 answer it, I'm going to assume both  
13 that you heard it and understood it.  
14 Fair enough?

15 A. Fair enough.

16 Q. I don't want us to speak over  
17 each other during this deposition,  
18 again, for the benefit of the court  
19 reporter. There may be moments where  
20 I ask a question and you know what the  
21 question is going to be before I finish  
22 it. I just ask that you wait until  
23 I'm done asking the question before  
24 you answer it. And I will afford you  
25 the same courtesy of waiting until you

1 finish your response before I ask my  
2 next question.

3 Okay?

4 A. Understood.

5 Q. Very good. I do not want you  
6 to guess or speculate as to the answer  
7 --- as to any of your answers. Your  
8 answers must be based on your personal  
9 knowledge. Do you understand that?

10 A. I do.

11 Q. If you don't know the answer to  
12 a question, I don't know is a  
13 perfectly acceptable answer if it's,  
14 in fact, the truth. Do you understand  
15 that?

16 A. Understood.

17 Q. You understand that you are  
18 also just placed under oath, and that  
19 oath is the same oath that you would  
20 take if you were giving testimony in a  
21 courtroom? Do you understand that?

22 A. I understand.

23 Q. And you understand that any  
24 knowingly false testimony that you  
25 give here today may be subject to

1 criminal penalties because of that  
2 oath?

3 A. I understand.

4 Q. During your testimony, you  
5 cannot consult any person or any  
6 documents other than the ones that I  
7 show you. Do you understand that?

8 A. I understand.

9 Q. During any breaks that we take,  
10 however, you may consult with your  
11 attorneys or anybody else.

12 Okay?

13 A. Understood.

14 Q. If we need to take --- if you  
15 need to take a break at any time, just  
16 let us know. We'll be happy to take a  
17 break. The only thing that I ask is  
18 that if I have a pending question that  
19 you answer it completely before we  
20 take the break.

21 Okay?

22 A. Understood.

23 Q. Excellent. Have you ever been  
24 deposed before, Mr. Kratz?

25 A. I have.

1 Q. Roughly how many times?

2 A. I'm going to say probably seven  
3 or eight.

4 Q. Can you please state your full  
5 name for the record?

6 A. Yes. David Kratz. D-A-V-I-D,  
7 K-R-A-T-Z.

8 Q. Mr. Kratz, I don't want you  
9 take --- to take any offense to this  
10 question, but are you under the  
11 influence of any drugs or alcohol that  
12 would impair your ability to  
13 understand or hear any of my  
14 questions?

15 A. No offense taken. And I am  
16 not.

17 Q. Are you under the influence of  
18 any prescription medication that would  
19 impair your ability to hear or  
20 understand any of my questions?

21 A. I am not.

22 Q. Do you have any medical  
23 conditions ---? I see that you wear  
24 glasses. Do you have any medical  
25 conditions that impair your ability to

1       see any documents that I might show  
2       you?

3       A.       As long as I have my readers,  
4       we're good to go.

5       Q.       Very good. You are the  
6       director of the Bucks County  
7       Correctional Facility.

8               Is that correct?

9       A.       That's correct.

10      Q.       And how long have you been in  
11      that position?

12      A.       I believe we're coming up on  
13      four years, roughly.

14      Q.       Do you, as the Director of the  
15      Department of Corrections, have  
16      authority to discharge employees of  
17      the Department of Corrections?

18      A.       I do not.

19      Q.       The person who has that  
20      authority would be the chief operating  
21      officer of the county, subject to  
22      approval by the Board of  
23      Commissioners.

24              Is that correct?

25      A.       I believe that's the process.

15

1 I don't have the authority to do it.

2 It comes from chief operating officer  
3 level, commissioner level, I believe.

4 Q. And the current chief operating  
5 officer of the county is Margaret  
6 McKevitt.

7 Is that correct?

8 A. That's correct.

9 Q. And she was the chief operating  
10 officer in June and July of 2024.

11 Is that correct?

12 A. That is correct.

13 Q. My client, Ara Kimbrough, was  
14 an employee of the county.

15 Correct?

16 A. Correct.

17 Q. He was at the time of his  
18 discharge in July 2024 an  
19 administrative lieutenant at the  
20 correctional facility.

21 Correct?

22 A. That's correct.

23 Q. And at the time of his  
24 discharge in July 2024, he had been  
25 employed by the Department of



1 Corrections for approximately 16  
2 years.

3 Is that correct?

4 A. I believe that is correct, yes.

5 Q. Now, in --- on March 3rd ---.

6 I'm sorry, excuse me. On May 30th,  
7 2024, Mr. Kimbrough had a telephone  
8 conversation with Attorney Brian  
9 Zeiger.

10 Correct?

11 A. To the best of my knowledge,  
12 yes.

13 Q. And that conversation involved  
14 Mr. Kimbrough sharing certain  
15 information that he had regarding the  
16 overdose death of an inmate named  
17 Joshua Patterson.

18 Correct?

19 A. To the best of my knowledge,  
20 yes.

21 Q. And at the time of that  
22 conversation, Attorney Zeiger was  
23 representing the estate of Joshua  
24 Patterson.

25 Correct?

1 A. Again, to the best of my  
2 knowledge, yes.

3 Q. And on behalf of the estate,  
4 Attorney Zeiger was pursuing a federal  
5 lawsuit against the county and a  
6 number of individuals regarding Mr.  
7 Patterson's death.

8 Correct?

9 A. That is correct.

10 Q. And Mr. Patterson's death  
11 occurred as a result of a drug  
12 overdose while he was incarcerated at  
13 the correctional facility.

14 Correct?

15 A. Correct.

16 Q. On or about June 21st, 2024,  
17 Mr. Kimbrough was suspended by the  
18 county.

19 Correct?

20 A. Correct.

21 Q. And he was suspended because of  
22 the telephone conversation that he had  
23 with Attorney Zeiger.

24 Correct?

25 A. To the best of my knowledge

1       that's the reason for the suspension,  
2       correct.

3       Q.       And according to the county,  
4       Lieutenant ---.

5                       ATTORNEY GRIESER:

6                       Sorry, I was on mute  
7       because my dog was barking.  
8       I'm going to object as to form  
9       for leading at this point. No  
10      problem with the foundational  
11      questions and whatnot, but at  
12      this point, objection as to  
13      leading. You can answer,  
14      David.

15                      THE WITNESS:

16                      Very well. Can you  
17      repeat the last question?

18                      ATTORNEY MANSOUR:

19                      Sure. Court Reporter,  
20      can you read it back for me?  
21      You're on mute, by the way.

22                               ---

23      (WHEREUPON, COURT REPORTER READS BACK  
24      PREVIOUS QUESTION.)

25                               ---

1                                   THE WITNESS:

2                                   Yes, that's my ---  
3                                   that's my understanding.

4                   BY ATTORNEY MANSOUR:

5           Q.           And then Lieutenant Kimbrough  
6           was subsequently discharged by the  
7           county on July 29th, 2024.

8                   Is that correct?

9           A.           Correct. On or about, I'm  
10          guessing. I don't have the document  
11          in front of me, but yes, that sounds  
12          about right.

13          Q.           And he was discharged for  
14          sharing confidential --- alleged  
15          confidential information with Attorney  
16          Zeiger during his May 30th, 2024 phone  
17          call.

18                   Is that correct?

19          A.           I believe that's correct, based  
20          on what I read on the fact finding  
21          notice.

22          Q.           And you have reviewed that fact  
23          finding notice before today, sir?

24          A.           I have.

25          Q.           Do you recall when the first

1 time it was that you saw that fact  
2 finding notice?

3 A. I do not.

4 Q. Margaret McKevitt, the COO, she  
5 was the person who authorized the  
6 discharge of Lieutenant Kimbrough.

7 Correct?

8 A. Again, I --- the inner workings  
9 of the actual final discharge, I can't  
10 speak to. I do believe it is the  
11 commissioners and the chief operating  
12 officer that make the final decision,  
13 yes.

14 Q. And the decision to terminate  
15 Mr. Kimbrough was subsequently  
16 ratified by the Board of  
17 Commissioners.

18 Is that correct?

19 A. That is correct.

20 Q. And you were consulted about  
21 the decision to terminate Mr.  
22 Kimbrough.

23 Correct?

24 A. I was.

25 Q. You were involved in that

1 decision making process?

2 A. I was involved in at least part  
3 of the decision making process, yes.

4 Q. Who else besides yourself was  
5 involved in that decision making  
6 process?

7 A. Obviously, human resources. I  
8 believe there was some input from the  
9 solicitor's office, Ms. McKevirtt, and  
10 I can't speak to the --- the  
11 commissioner's participation. I'm not  
12 involved at that level.

13 Q. Okay.

14 Thank you for that. I'm going  
15 to --- going to share my screen. Can  
16 you see the PDF document that I'm  
17 sharing?

18 A. Yeah, I do. I just have to  
19 make a quick screen adjustment here,  
20 see if I can get all of it.

21 Okay.

22 Q. Okay.

23 This is a document that in  
24 prior depositions has already been  
25 marked as P-1. I will represent to

1       you that this is the termination  
2       letter and disciplinary action form  
3       that was provided to my client on or  
4       about July 29th, 2024. Take a moment  
5       to just review these two documents and  
6       just let me know when you're done.

7       A.       You can go to the next  
8       document. You can go to the next  
9       page, please.

10      Q.       That's actually the last page.

11      A.       Okay.

12              Great.

13      Q.       So you'll agree with me, sir,  
14       that this document confirms what we  
15       established earlier, that Mr.  
16       Kimbrough was discharged from the  
17       county for sharing allegedly  
18       confidential information with Attorney  
19       Zeiger relating to his lawsuit against  
20       the Department of Corrections and the  
21       county.

22              Correct?

23      A.       I would agree that that's the  
24       essence of it. And the violation  
25       that's in front of us right now spells

1 out the different --- different areas  
2 of work, rules that were violated, but  
3 essentially that would be the essence  
4 of the --- of the reason for the  
5 disciplinary action.

6 Q. Can you describe for me  
7 specifically what confidential  
8 information Mr. Kimbrough shared with  
9 Attorney Zeiger?

10 A. Yeah, and again, I'm basing  
11 this off the interviews. I was not  
12 present. I believe that the  
13 information shared was some concerns  
14 that he had about the death of Mr.  
15 Patterson. I believe things that were  
16 confidential were shared as far as  
17 plans of the day, how we're --- how  
18 the contraband may have gotten in, the  
19 post --- the essence of what posts  
20 are, maybe some information about how  
21 searches are conducted, things ---  
22 things along those lines.

23 Q. And is there any policy that  
24 classifies that information as  
25 confidential?



1       A.       So, you know, again, when we  
2       look at our policies, it's more of the  
3       sharing of the information. If you're  
4       familiar with our --- and I don't know  
5       what exhibits were already marked, but  
6       our ethics policy, A1-1, I believe, it  
7       talks about familiarity and being  
8       involved with family members or  
9       others.

10               There are sections in the code  
11       of conduct with HR which is spelled  
12       out in the county work rules. And  
13       also the table offenses speaks to  
14       sensitive nature, disclosing of  
15       information.

16       Q.       What is the definition of  
17       confidential as that word is used in  
18       the various county policies?

19       A.       So, you know, again, I use  
20       confidential. I use security  
21       sensitive information. You know,  
22       these are things that are internal, if  
23       released, could cause disorder into  
24       --- in the operations of the facility.  
25       It could contribute to inmates having

1 information that they could use to  
2 escape, do harm, create divergens in  
3 the facility. We've gone to court on  
4 a few of these things that are  
5 actually not subject to Right to Know  
6 requests or requests were denied to  
7 that information.

8 There's really no list of  
9 confidential information. It would be  
10 impossible to really compile a list of  
11 everything that is confidential or  
12 security sensitive.

13 Q. Who determined in this case  
14 that the information Mr. Kimbrough  
15 shared was confidential, as that word  
16 is used in the policies?

17 A. As it's my understanding, I was  
18 informed after the contact with Mr.  
19 Zeiger was brought into play. I was  
20 consulted on that by the law  
21 department and human resources about  
22 the information that was disclosed and  
23 that it was derived from actually our  
24 work, not our --- you know, outside  
25 the facility.

1           So, you know, generally  
2       speaking, if you're garnering that  
3       type of information at work, you know,  
4       a discussion amongst administrators or  
5       something like that, that would be  
6       confidential or security sensitive  
7       information.

8       Q.       So one of your --- and correct  
9       me if I'm wrong, but one of the pieces  
10      of information you're claiming was  
11      confidential was, I think, referred to  
12      as the movement of personnel?

13      A.       I think what I said was  
14      probably the staffing matrix where we  
15      --- we have to put people on posts and  
16      positions.

17      Q.       If a particular employee is ---  
18      of the jail is put on a particular  
19      post, that information would be known  
20      by everybody in the jail, wouldn't it?

21      A.       Yes.

22      Q.       Including inmates?

23      A.       Well, not all inmates. I mean,  
24      if a person were put on a module, I  
25      guess the A module inmates would know

1       that. Inmates on other modules may  
2       not necessarily know the staffing  
3       matrix that day.

4       Q.       And the same would be true with  
5       the staffing of the other modules or  
6       the intake unit and various other  
7       units of the jail.

8               Correct? The people who were  
9       present would know who's there and  
10      who's not.

11      A.       Yes, that's correct.

12      Q.       A person who is being booked  
13      into the jail through the intake unit  
14      would know which officers are present  
15      on the intake unit and which ones are  
16      not.

17              Correct?

18      A.       Assuming that they've been here  
19      before and are familiar with the  
20      staff, if it's a new inmate, they may  
21      not know, you know, who's who or that.  
22      But if an inmate's been here before,  
23      spent some time here, they may have  
24      knowledge of who the person is.

25      Q.       And the county doesn't have ---

1 or the jail, excuse me, doesn't have  
2 any policies or procedures relating to  
3 inmate disclosure of that information,  
4 do they?

5 A. You can't --- you can't  
6 regulate inmate disclosure of  
7 information. It's just not possible.  
8 We can regulate our staff, but, you  
9 know, we can't regulate what an  
10 inmate's going to say or do.

11 Q. So to the extent you believe  
12 that the stationing of certain  
13 officers on certain units is  
14 confidential, in some circumstances,  
15 at least you would agree inmates have  
16 access to that confidential  
17 information, don't they?

18 A. I would agree situationally  
19 inmates would have access to that  
20 information.

21 Q. In terms of --- you had  
22 referenced before drugs being smuggled  
23 into the jail and that being  
24 potentially confidential or sensitive  
25 information.

1 Is that correct?

2 ATTORNEY GRIESER:

3 Objection to form.

4 BY ATTORNEY MANSOUR:

5 Q. You can answer if you  
6 understand.

7 A. I --- I don't know that I  
8 referenced specifically. I think we  
9 --- you had asked a question about  
10 drugs being brought into the jail, and  
11 I verified that, yes, that was part of  
12 the investigation with the Patterson  
13 case. Obviously, you know,  
14 information --- we're not going to  
15 share that with everybody, you know,  
16 the results of the investigation. If  
17 there's criminal charges being filed  
18 and the district attorney is pursuing  
19 something like drugs being brought  
20 into the institution, you know, we're  
21 not going to share that out with  
22 everybody. That's sort of a need to  
23 know kind of thing.

24 Q. You had mentioned that you were  
25 aware Mr. Kimbrough had shared with

1 Attorney Zeiger his opinion as to how  
2 Inmate Rhoades had smuggled jails in  
3 --- or smuggled drugs into the jail.

4 Correct? That's your  
5 understanding of one of the things Mr.  
6 Kimbrough shared?

7 A. I believe, yeah. I --- again,  
8 I have a general overview of --- of  
9 that situation. I was not part of the  
10 interview process with him. However,  
11 I believe, you know, the drugs were  
12 smuggled in. I believe that was one  
13 of the things that was shared with Mr.  
14 Zeiger.

15 Q. And you believe that  
16 information was confidential?

17 A. Absolutely.

18 Q. Did Mr. Rhoades --- Mr. Rhoades  
19 knew how he smuggled drugs into the  
20 jail.

21 Right?

22 ATTORNEY GRIESER:

23 Objection. Speculation.

24 Dave, you can go ahead and  
25 answer.

1  
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THE WITNESS:

Yeah, I don't --- I don't know. I never spoke to Mr. Rhoades, and I don't recall ---. I believe --- and again, I believe he was charged with DDRD, drug delivery resulting in death, but I'm sure he knew --- knew how he tried to or did smuggle in drugs.

BY ATTORNEY MANSOUR:

Q. I mean, that's kind of common sense.

Right? I mean, he's smuggled in the drugs, so obviously he would know how he did it.

Right?

A. Correct. He's the one that did it, so yes.

Q. Are there any policies or procedures in the jail that would have prevented or could have prevented Mr. Rhoades from sharing that information with other inmates?

A. He's free to talk to any inmate



1       that he chooses.

2       Q.       How about people outside of the  
3       jail? Could he have potentially  
4       contacted the third parties outside of  
5       the jail and told them how he smuggled  
6       drugs into the jail?

7       A.       Absolutely. As an inmate, he's  
8       not subject to the county work rules,  
9       so he could do what he chooses.

10      Q.       And in light of his ability to  
11      share that information with outside  
12      third parties, does that change your  
13      opinion as to whether or not that  
14      information is confidential under the  
15      employment policies of the county or  
16      the jail?

17      A.       No, it doesn't. And I'm going  
18      to explain. You know, we've been  
19      through litigation on this. Again, we  
20      can't control what people --- people  
21      want to say, inmates want to say.  
22      However, information gleaned from your  
23      workplace, from, you know, our records  
24      management systems, our management  
25      discussions, again, that's

1 confidential information. And that's  
2 the person subject to --- the  
3 employee, myself, everybody else is  
4 subject to the employee rules and  
5 regulations from both the Department  
6 of Corrections and human resources.

7 Q. Okay.

8 So you would agree with me that  
9 confidential information is --- the  
10 information itself is what is  
11 classified as confidential.

12 Correct?

13 ATTORNEY GRIESER:

14 Objection to form. You  
15 can go ahead and answer, David,  
16 if you understand the question.

17 THE WITNESS:

18 So --- so can you just  
19 repeat that back?

20 BY ATTORNEY MANSOUR:

21 Q. Sure. So when we're talking  
22 about confidential information, what's  
23 confidential is the substance of the  
24 information?

25 Correct?

1       A.       So what I like to use, you  
2       know, there's confidential/security  
3       sensitive information. So certain  
4       things are confidential. Criminal  
5       History Records Information Act spells  
6       out a lot of things. There are  
7       expungements. There are limited  
8       access and clean slate regulations  
9       which push some of that into  
10      confidence areas. Personal  
11      identifiable information from an  
12      inmate, confidential information.

13             You know, security sensitive  
14      comes into play when you're talking  
15      about things like smuggling drugs.  
16      And we don't want to provide a guide  
17      for other inmates to exploit maybe a  
18      potential weakness or a way of --- a  
19      novel way of concealing drugs or  
20      bringing something into the  
21      institution.

22             So, you know, again, I can't  
23      control the inmate, but the staff,  
24      that --- that's something I would  
25      consider confidential/security

1 sensitive. We want to protect that.

2 Q. Though, the information about,  
3 specifically in this case, how Rhoades  
4 might have smuggled drugs into the  
5 jail, that information is confidential  
6 because it was shared by Attorney  
7 Kimbrough --- or by Lieutenant  
8 Kimbrough. Is that your testimony?

9 A. That ---.

10 ATTORNEY GRIESER:

11 Objection as to form.

12 BY ATTORNEY MANSOUR:

13 Q. Go ahead. Is that your --- is  
14 that your testimony, that the  
15 information was confidential because  
16 it was shared by Attorney Kimbrough  
17 (sic)?

18 A. It's hard --- again, sharing  
19 information that he gleans from his  
20 position that is security sensitive is  
21 absolutely confidential and security  
22 sensitive.

23 Q. And that same information would  
24 have not been confidential if it was  
25 shared, for example, by Mr. Rhoades?

1       A.       I would consider it  
2       confidential, but there's nothing I  
3       can do to make Mr. Rhoades not speak.

4       Q.       If Mr. Rhoades had shared that  
5       information before Lieutenant  
6       Kimbrough, would it have still been  
7       considered confidential?

8       A.       Well, I don't know that  
9       anything Mr. Rhoades would share would  
10      even be accurate. So that would be  
11      the first thing I would say. To me,  
12      yes, it's still confidential. I mean,  
13      I can't control what Mr. Rhoades may  
14      or may not say. But our work policies  
15      and our work rules are pretty clear on  
16      sharing information that you glean  
17      from your work experience.

18             Example for me that comes to my  
19      mind would be sex offenders. You  
20      know, Mr. Rhoades could feel free to  
21      talk to anybody he wants about how  
22      many sex offenders he thinks are in  
23      custody and where they're at and what  
24      they may be doing. You know, anybody  
25      who works for the Department of

1 Corrections should not release that  
2 information to anyone.

3 Q. Okay.

4 So you would agree with me,  
5 sir, that generally confidential  
6 information in the eyes of the county  
7 is information that the county does  
8 not want people outside of the county  
9 knowing about?

10 ATTORNEY GRIESER:

11 Objection as to form.

12 Leading. You can go ahead and  
13 answer, Dave.

14 THE WITNESS:

15 Yeah, I would say it's  
16 not a --- it's not a want  
17 thing. I mean, obviously, you  
18 know, it's a need thing. We're  
19 not talking about the county's  
20 wishes. We're talking about  
21 security and sensitive  
22 information that --- that could  
23 be, again, used in not a good  
24 way.

25 BY ATTORNEY MANSOUR:

1 Q. Okay.

2 So then confidential  
3 information would be information that  
4 the county believes is not necessary  
5 for those working outside the county  
6 to know about?

7 ATTORNEY GRIESER:

8 Objection as to form.

9 Can you please rephrase?

10 BY ATTORNEY MANSOUR:

11 Q. Confidential --- you used the  
12 word --- you said it's not a matter of  
13 want, it's a matter of need.

14 Correct?

15 A. I believe that's what I said,  
16 yes. Not a matter of what we want,  
17 it's a matter of safety and security.  
18 So that's the need. And also, again,  
19 you know, disclosing information that  
20 is personally identifiable or possible  
21 CHRIA, we just don't --- we don't  
22 distribute that information to the  
23 general public.

24 Q. So information that the county  
25 determines is necessary for the

1 security of the jail, that's the  
2 information that's confidential.

3 Correct?

4 A. Feel like we're going over the  
5 same stuff. So, yeah, obviously  
6 confidential. Again, safety and  
7 security. We're talking about  
8 information that can be used to create  
9 an unsafe work condition or a  
10 disruption of our operations, create a  
11 security risk, those type of things.

12 Or again, somebody's right to  
13 have privacy. You know, you can't  
14 disclose information that, you know,  
15 an inmate has a right to privacy. I'm  
16 not going to give an inmate's Social  
17 Security number out to anyone. I'm  
18 not going to give an inmate's sexual  
19 orientation out to anyone. Any of  
20 those things that, you know, an inmate  
21 has a right to privacy as well.

22 Q. What I'm trying to get at, sir,  
23 is --- what I'm trying to understand  
24 is how certain information can be  
25 considered confidential if various



1 people outside of the county could or  
2 do know about it?

3 ATTORNEY GRIESER:

4 Objection as to form.

5 This is asked and answered.

6 You can go ahead and answer,  
7 Dave.

8 THE WITNESS:

9 Yeah. I mean, again, I  
10 can't control what an inmate  
11 says. I can't control that.  
12 The county work rules don't  
13 apply to an inmate. So an  
14 inmate may go out and spread  
15 misinformation. That happens  
16 all the time. They may spread  
17 other information that may or  
18 may not be accurate.

19 Do I consider it  
20 confidential? Sure. But the  
21 method of the dissemination of  
22 the information is beyond the  
23 control of the county and the  
24 jail. If another inmate has  
25 another inmate's Social

1 Security number and they want  
2 to publish, that's entirely up  
3 to them. I'm not --- we're not  
4 going to be the one to publish  
5 that.

6 And again, you know,  
7 things that we have --- have  
8 been subject to Right to Know  
9 requests that have been  
10 declared, information that's  
11 not public knowledge or  
12 security sensitive, use of  
13 force, things like that have  
14 been requested in a non-  
15 litigation kind of way.

16 I mean, obviously the  
17 rules are different when we're  
18 talking about litigation. But  
19 you know, again, we ---  
20 anything security sensitive or  
21 that's going to create a  
22 disruption or interfere with  
23 safe operations in the  
24 facility, we're going to  
25 consider that information

1 confidential and security  
2 sensitive.

3 BY ATTORNEY MANSOUR:

4 Q. If Mr. Kimbrough had been  
5 subpoenaed to testify about his  
6 knowledge of the incident that led to  
7 Mr. Patterson's death as part of the  
8 lawsuit that had been filed by Mr.  
9 Patterson's estate, would his  
10 testimony have been considered  
11 confidential?

12 A. So --- so my response with that  
13 would be based on my --- my limited  
14 experience with subpoenas and things  
15 like that. Again, I would leave that  
16 up to the solicitor's office, who  
17 represents us, as to whether they're  
18 going to oppose the subpoena, what  
19 information, you know, is going to be  
20 released? Are there fallback motions?  
21 Are they going to try and seal these  
22 things? These aren't things that as  
23 Director of Corrections that I, you  
24 know, get involved in.

25 Q. Okay.

1 But I'm, you know, asking you  
2 for your opinion and your --- based on  
3 your understanding of the county and  
4 jail policies, if Mr. Kimbrough told  
5 Attorney Zeiger exactly what happened  
6 that day during the course of a  
7 deposition, would he have been  
8 disclosing confidential information to  
9 Attorney Zeiger under those  
10 circumstances?

11 ATTORNEY GRIESER:

12 Objection as to form.

13 Asked to answered. You can go  
14 ahead and answer, Dave.

15 THE WITNESS:

16 Again, you know, I've  
17 been involved in situations  
18 where I've been subpoenaed or  
19 have documents that have been  
20 subpoenaed. You know, our  
21 process is that, you know, we  
22 go through the law department.  
23 If they want to assign an  
24 attorney or if I wanted to get  
25 an outside counsel to represent

1 me in those matters, I  
2 certainly can. I don't fight  
3 the fight. I let the law  
4 department, the solicitor,  
5 fight the fight. If they're  
6 --- they'll question me as to,  
7 you know, is this security  
8 sensitive? Is this something  
9 we can release? Should we ---  
10 what are the ramifications of  
11 releasing that information?

12 And again, the lawyers  
13 for the Department of  
14 Corrections and the county  
15 would have to decide with the  
16 judge ---. At the end of the  
17 day, the judge is going to tell  
18 us what we're going to do.

19 So that's about all I  
20 can really say intelligently to  
21 that. I can't say that ---  
22 what happens to that  
23 information after a subpoena  
24 and the person's directed to  
25 answer for a deposition.

1 BY ATTORNEY MANSOUR:

2 Q. So you can't say one way or the  
3 other whether Mr. Kimbrough would have  
4 breached confidentiality had he told  
5 Attorney Zeiger the same information  
6 during a deposition. You're unsure  
7 ---?

8 ATTORNEY GRIESER:

9 Objection as to form.

10 Asked and answered. You can go  
11 ahead and answer, Mr. Kratz.

12 THE WITNESS:

13 Yeah. So --- so again,  
14 I --- we're talking in  
15 hypotheticals, and I don't know  
16 the information. If somebody  
17 was asking for, you know,  
18 something rather innocuous, you  
19 know, we generally wouldn't  
20 fight that. If there was a big  
21 security issue, let's say,  
22 video, somebody wanted to view  
23 video from something that  
24 exposes our egresses or our  
25 tactics that are used to deal

1 with certain issues, some of  
2 our policies are security  
3 sensitive, and we redact them.  
4 Again, that's going to go in  
5 front of the judge who's going  
6 to say, okay, the redactions  
7 are fine. They --- they may  
8 review that in chambers. You  
9 know, we've had that happen.

10 We've had judges uphold  
11 our redactions. We've had  
12 times where the judge has  
13 ordered us to remove some  
14 redactions. So, again, I can't  
15 really say. Once you get into  
16 that litigation area, I am  
17 pretty much just a player in  
18 that, and I have my attorney  
19 that will represent me. I may  
20 get asked questions about  
21 what's security sensitive and  
22 what's --- what we think is  
23 confidential and the  
24 ramifications of releasing  
25 that. But it all really comes

1 down to the deposition subpoena  
2 and the judge and the lawyers,  
3 so ---.

4 BY ATTORNEY MANSOUR:

5 Q. So you would agree then that it  
6 would not be as clear of a case, at  
7 least as you believe it was here in  
8 terms of my client's conversation with  
9 Attorney Zeiger.

10 ATTORNEY GRIESER:

11 Objection as to form.  
12 Speculation. Could you please  
13 rephrase?

14 BY ATTORNEY MANSOUR:

15 Q. Sure, I'll rephrase the  
16 question. So you believe that under  
17 the circumstances here, my client's  
18 private conversation with Attorney  
19 Zeiger, in which he disclosed the  
20 disinformation, you believe was  
21 clearly a breach of confidentiality?

22 A. Yeah, I think the key  
23 difference here with what we were  
24 discussing about subpoenas and  
25 depositions is, you know, I'm talking



1 to you today not because I want to,  
2 but because I have to. I'm being  
3 ordered to do this by the judge.  
4 Right.

5 So Mr. Kimbrough made the call  
6 on his own. There was no --- there  
7 was no subpoena, there was no  
8 deposition. There was no review of  
9 information. As far as I know, it was  
10 never brought to anybody's attention  
11 that he wanted to disclose anything to  
12 an attorney.

13 So, again, I think there's a  
14 difference between me picking up the  
15 phone and saying, hey, I'm calling  
16 somebody who's representing somebody  
17 who is suing us versus, hey, you have  
18 to report for a deposition, or here's  
19 a subpoena that you need to comply  
20 with. So they're two very different  
21 things to that.

22 Q. But the information would be  
23 the same.

24 Right?

25 A. Well, again, I would ---.

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ATTORNEY GRIESER:

Objection as to form.  
Asked and answered. Go ahead,  
Dave, you can answer.

THE WITNESS:

So I would say, you  
know, with a subpoena or a  
deposition, I'm compelled to  
answer questions that are  
brought to me and requests for  
information that parties may  
want. Me sitting at my desk  
saying, I'm going to call so  
and so who's representing  
somebody who is litigating  
against the department and talk  
to them, there's --- nobody's  
being compelled to give that  
information. That's just  
somebody wants to speak and  
give that information out,  
which I believe that, you know,  
again, is probably --- it could  
be, you know, probably trying  
to retaliate or harm us a

1           little bit. I mean, I don't  
2           understand. In 21 years, I've  
3           never seen that happen before.

4           BY ATTORNEY MANSOUR:

5           Q.       And that was a concern of the  
6           county.

7           Correct? That --- that Ms. ---  
8           the information Mr. Kimbrough shared  
9           with Attorney Zeiger could potentially  
10          compromise the county's interest in  
11          the Patterson litigation.

12          Correct?

13                   ATTORNEY GRIESER:

14                  Objection as to form and  
15                  mischaracterization of this  
16                  witness' prior testimony. You  
17                  can go ahead and answer, Dave.

18                   THE WITNESS:

19                  Yeah, I --- again, I  
20                  would --- I can't because I was  
21                  not in the room if that was  
22                  discussed with me. So I --- I  
23                  really don't have answer for  
24                  you as to what the county  
25                  thought or what the advice was

1           from the solicitor's office or  
2           if there was any conversations.

3       BY ATTORNEY MANSOUR:

4       Q.       But what about what you think?  
5       I want to know what you think. Do you  
6       think it was --- that Mr. Kimbrough's  
7       conversation with Attorney Zeiger and  
8       the information that he shared could  
9       have potentially compromised the  
10      county's interest in the litigation  
11      that was going on with the estate of  
12      Mr. Patterson?

13      A.       So, again, I don't have an  
14      exact list of what was discussed. I  
15      did view the motion to reopen that was  
16      filed by Mr. Zeiger. There was no big  
17      specifics in there to me, but I'm sure  
18      maybe more was conveyed. And again,  
19      even in that motion to open, the  
20      attorney advised him, like, basically,  
21      you're reaching out to me. I'm not  
22      reaching out to you. I'm not part of  
23      the process here. It's -- yeah, I  
24      mean, I--- I really can't speak to  
25      that accurately.

1 Q. When did you first review the  
2 motion that you're referring to, the  
3 motion to reopen discovery filed by  
4 Attorney Zeiger?

5 A. So I --- I went --- I first  
6 gathered my documents as we were  
7 leading up to the deposition and try  
8 to go over the case. And I did do a  
9 little bit of a deeper read in that.  
10 I was basically informed by phone that  
11 that had happened, and that's kind of  
12 where this whole investigation  
13 started.

14 You know, you asked me what I  
15 think. You know, I --- I really don't  
16 know what to say in that area. I  
17 mean, I can tell you that it coincides  
18 with an HR investigation, the  
19 disclosure of information. There was  
20 a complaint, I believe, filed against  
21 Mr. Kimbrough, Lieutenant Kimbrough,  
22 within a few --- a day or so, I  
23 believe, of the discipline being  
24 handed to him.

25 And again, this was not a

1 Department of Corrections issued  
2 discipline. This was a harassment  
3 complaint. So human resources  
4 provided a fact finding notice, and,  
5 you know, within a day or so, I  
6 believe he reached out to Attorney  
7 Zeiger, which to me is completely  
8 uncharacteristic.

9 Q. You said you reviewed the  
10 motion filed by Attorney Zeiger in the  
11 course of preparing for today's  
12 deposition.

13 Is that correct?

14 A. Correct. I reviewed all the  
15 documents associated with the file,  
16 and when I say review, I read it. I  
17 didn't do a deep dive or study.

18 Q. Okay.

19 Did you review it or read it at  
20 any time prior to your preparation for  
21 today's deposition?

22 A. I don't --- I don't recall. I  
23 may have gotten a copy of that back  
24 before this all happened and we were  
25 involved in litigation and the

1 separation. If I did, I glanced at  
2 it. I mean, had I known we were going  
3 to end up in litigation over a  
4 termination, I probably would have  
5 read it a little closer. But at that  
6 point in time, you know, I was more  
7 concerned with bullying investigation  
8 ongoing and the discipline that was  
9 coming from that.

10 So, you know, that was really  
11 my focus at the time. When you talked  
12 about Kimbrough, we did not know that  
13 there was going to be a termination at  
14 this point in time, at least, I  
15 didn't. I was focused on the --- the  
16 complaint that was lodged against him  
17 and really just trying to get him  
18 through that process. Really, you  
19 know, I wanted him to come out of that  
20 --- that investigation that I'll call  
21 bullying, harassment investigation,  
22 you know, I wanted to get him back on  
23 track, get him mentored. He's ---  
24 he's been a great employee and ran my  
25 records office. He had my trust. He

1 had the trust of our administrators.  
2 So, you know, that was really my  
3 focus, this --- you know, okay, he's  
4 going to get probably some discipline  
5 for that. It's not life altering.  
6 And I just really wanted to get him  
7 back on track in a good mental state  
8 to stay part of the administrative  
9 team.

10 So I wasn't thinking we'd be  
11 sitting here talking today at that  
12 point in time.

13 Q. So at the time of Mr.  
14 Kimbrough's discharge on July 29th,  
15 2024, you at that point had not yet  
16 read the motion that was filed by  
17 Attorney Zeiger to reopen discovery.

18 Correct?

19 A. Again, I ---.

20 ATTORNEY GRIESER:

21 Objection to form.

22 Leading. You can answer, Dave.

23 THE WITNESS:

24 Yeah, I may have read  
25 it, but again, I didn't review



1           it at that point in time when  
2           --- for the termination part.  
3           I was aware of it. It was  
4           explained to me what had  
5           happened. Again, I'm not a  
6           lawyer, so you know, I didn't  
7           even know that you could ---  
8           after a case was marked for  
9           closure, that you could even  
10          come back with additional  
11          information, even if you  
12          weren't subpoenaed or deposed  
13          prior to that.

14                 So I was aware that the  
15          contact was there. I really  
16          didn't have any specifics and  
17          to this day, still don't have,  
18          you know, extreme specifics.  
19          But I did read over that filing  
20          just to familiarize myself  
21          today, because obviously,  
22          that's a part of why the  
23          person's --- why Mr. Kimbrough  
24          was terminated.

25          BY ATTORNEY MANSOUR:

1 Q. Are you saying that at the time  
2 Mr. Kimbrough was terminated on July  
3 29, 2024, you didn't know --- you  
4 personally did not know specifically  
5 what he had told Attorney Zeiger?

6 A. Well, again, I don't know  
7 specifically what he told. I  
8 generally understood that he tried to  
9 relay information that's spelled out  
10 in that motion to reopen, if I'm using  
11 that correctly, to reopen the case  
12 that Attorney Zeiger filed.

13 Q. So I'm going to share my screen  
14 with you. Can you see the screen  
15 okay, the document?

16 A. Yes, I can.

17 Q. Okay.

18 I'm not going to mark this as  
19 an exhibit because it's already a part  
20 of the record. This is the complaint  
21 that Mr. Kimbrough has filed in this  
22 case.

23 A. Yes.

24 Q. And I want to direct your  
25 attention here to paragraph 22 ---

1        actually 21 and 22. If you can read  
2        both of those to yourself and then  
3        just let me know when you're done.

4        A.        If you could unhighlight that,  
5        it's just making my screen a little  
6        wonky.

7        Q.        Okay.

8                Sure. Yeah. And if you need  
9        me to make it bigger, I can make it  
10       bigger.

11       A.        No. It's good. It was 21 to  
12       22.

13               Right?

14       Q.        Yes.

15       A.        Okay.

16       Q.        Do you believe paragraph 22  
17       contains confidential information?

18       A.        I believe it's --- I believe  
19       it's security sensitive. I don't  
20       agree with --- with what's being said  
21       there. After, you know, reviewing the  
22       video, I think there was --- there are  
23       other people in reception at the time.  
24       I'm not going to agree with the as  
25       usual understaffed in reception.

1           So --- so, again, these are,  
2           again, things that he is relaying to  
3           the attorney on his own person. It's  
4           his personal knowledge. I don't agree  
5           that's personal knowledge. I agree  
6           that's institution knowledge.

7           I mean, Joe Smith on the street  
8           can have personal knowledge. I  
9           visited Mr. Patterson --- or visited  
10          Mr. So and So today, and he told me X,  
11          Y, and Z.

12          Okay.

13          But this was professional  
14          knowledge. This wasn't personal  
15          knowledge. And again, I don't  
16          necessarily agree with a lot of what  
17          in in 22 --- number 22.

18          Q.       And that's fair enough. So you  
19          may disagree with Lieutenant  
20          Kimbrough's opinion about why this may  
21          have happened. But my question is, is  
22          there anything specifically in here,  
23          any tidbit of information in paragraph  
24          22 that you believe is confidential  
25          under the county's policies?

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ATTORNEY GRIESER:

Objection as to form.  
Mischaracterizing his prior  
testimony. I believe he used  
the term security sensitive.

ATTORNEY MANSOUR:

I know what he said.  
I'm asking ---.

ATTORNEY GRIESER:

There's a difference.  
You can go ahead and ask ---  
you can answer, Dave.

THE WITNESS:

So, you know, again, I  
don't know what was  
specifically shared. It says  
he was --- he explained the  
inmate that snuck drugs into  
the jail was able to do so  
because the reception unit was,  
as usual, understaffed. Again,  
I don't know what information  
he wanted to relay to the  
attorney. Is there more  
detail? Did he have an

1           investigative report or  
2           something from the district  
3           attorney. Again, unstaffed, I  
4           would disagree with that.

5                     Putting that inaccurate  
6           information out there is, you  
7           know, again, from his  
8           professional observations, not  
9           his personal observations.  
10          It's absolutely security  
11          sensitive, depending on how  
12          much detail he drilled down  
13          into. I don't know. These are  
14          very general statements. So I  
15          don't know what exactly he told  
16          Attorney Zeiger.

17       BY ATTORNEY MANSOUR:

18       Q.       Okay.

19               Well, let's break it down line  
20       by line.

21       Q.       Okay.

22       A.       Sure.

23       Q.       This is a pretty good summary  
24       of what he told Attorney Zeiger.

25       Q.       Okay.

1           So let's start with he  
2           explained that the inmate that snuck  
3           drugs into the jail was able to do so  
4           because the R and R unit was  
5           understaffed --- as usual understaffed  
6           after Officer Ulmer was pulled from  
7           the R and R unit to a different unit  
8           by Lieutenant Clayton. That  
9           allegation, is that, we'll start first  
10          with, confidential?

11                   ATTORNEY GRIESER:

12                   Objection as to form.

13                   This has been asked and  
14                   answered.

15                   THE WITNESS:

16                   So again, it's --- it's  
17                   my understanding and from my  
18                   --- my research and watching  
19                   the video, that's completely  
20                   inaccurate.

21                   BY ATTORNEY MANSOUR:

22                   Q.        Okay.

23                   That's fine. You disagree with  
24                   his assessment or his explanation?

25                   A.        I do, yes.

1 Q. Assuming that's what he said,  
2 is it confidential?

3 A. So again, confidential, are we  
4 talking to a reporter? Are we putting  
5 that out at the bar on Monday night?  
6 That is confidential information that  
7 should not be put out there. You  
8 know, if it's --- if it's compelled by  
9 a subpoena or a deposition, again,  
10 different --- different area. But  
11 this is --- this is stuff that, yeah,  
12 I view it as confidential and security  
13 sensitive.

14 Q. Okay.

15 So you believe his statement  
16 that the R and R unit was understaffed  
17 because Officer Ulmer was pulled from  
18 the unit by Lieutenant Clayton --- you  
19 believe that statement is confidential  
20 and sensitive.

21 Correct?

22 A. Correct. And also inaccurate.

23 Q. Okay.

24 Then he goes on to say Officer  
25 Atilas had just completed a strip



1 search of this inmate and directed him  
2 to return to the R and R unit where  
3 Officer Atilas believed Officer Ulmer  
4 would be waiting to escort him to a  
5 different holding cell.

6 Do you believe that statement  
7 is confidential and security  
8 sensitive?

9 A. I do. I believe all of our  
10 operational things are confidential  
11 and security sensitive. Yeah, that's  
12 operational.

13 Q. And then it proceeds, but  
14 because Officer Ulmer had been pulled  
15 to a different unit, the inmate  
16 returned to his prior holding cell and  
17 retrieved drugs that he had hidden  
18 there earlier, which he then snuck  
19 into his assigned module. You believe  
20 that statement is confidential and  
21 sensitive.

22 Correct?

23 A. I do.

24 Q. And then the last line is, once  
25 there, this inmate shared the drugs

1 with Mr. Patterson, who subsequently  
2 overdosed and died. Do you believe  
3 that statement is confidential and  
4 sensitive?

5 A. I do.

6 Q. Are you aware of this fact ---  
7 are you aware of the fact that this  
8 complaint, including this paragraph,  
9 is part of the public record?

10 A. I am not.

11 ATTORNEY GRIESER:

12 Objection as to form,  
13 relevance.

14 BY ATTORNEY MANSOUR:

15 Q. Are you aware of the fact that  
16 anybody who wants to find it can go  
17 online and read this complaint?

18 ATTORNEY GRIESER:

19 Objection as to form.  
20 Again, relevance. You can go  
21 ahead and answer, Dave.

22 THE WITNESS:

23 Again, I assume it's  
24 public, and I'm assuming if  
25 they have the right program to

1 access it, they can.

2 BY ATTORNEY MANSOUR:

3 Q. And you understand the judge in  
4 this case has read paragraph 22?

5 ATTORNEY GRIESER:

6 Objection ---

7 THE WITNESS:

8 I do.

9 ATTORNEY GRIESER:

10 --- as to --- as to  
11 form. That's not relevant and  
12 is assuming facts and --- not  
13 in evidence. I don't ---. Can  
14 you rephrase that, please?

15 ATTORNEY MANSOUR:

16 Sure.

17 THE WITNESS:

18 Excuse me one second.

19 Okay.

20 BY ATTORNEY MANSOUR:

21 Q. You understand that the judge  
22 assigned to this case has read this  
23 paragraph?

24 ATTORNEY GRIESER:

25 Objection as to form.

1           Leading.

2                     ATTORNEY MANSOUR:

3                     All right.

4           I just want to pause right  
5 here. So you've made a number of  
6 objections as to form. Form and  
7 relevance are different objections.  
8 Leading ---.

9                     ATTORNEY GRIESER:

10                    I'm making multiple  
11 objections.

12                    ATTORNEY MANSOUR:

13                    I understand, but  
14 leading --- I can lead him.  
15 He's an adverse witness, so I'm  
16 more than entitled to lead him.  
17 So that's not a relevant  
18 objection. And if you're going  
19 to keep doing it, it's going to  
20 be a problem.

21                    So if you have a problem  
22 with the way my question is  
23 being asked, it's a compound  
24 question or it's a confusing  
25 question, that's fine. But to

1 object on the basis of  
2 relevance or to object on the  
3 basis of leading is highly  
4 inappropriate.

5 ATTORNEY GRIESER:

6 Thank you for explaining  
7 that to me, Mr. Mansour. I am  
8 aware of what form is. I feel  
9 that you're mischaracterizing  
10 the evidence here.

11 ATTORNEY MANSOUR:

12 I'm not  
13 mischaracterizing anything.  
14 I'm asking him if he's aware  
15 that other people, besides  
16 employees of the jail, have  
17 access to this complaint.

18 ATTORNEY GRIESER:

19 That's fine. You can go  
20 ahead and answer, Dave.

21 THE WITNESS:

22 So, again, I --- I was  
23 not aware. I do understand  
24 that most of these things are  
25 public, but I also understand

1           that sometimes a judge can  
2           conceal things and they don't  
3           get disclosed to the public.

4                       So again, I don't know.  
5           I did not know specifically  
6           that this was not sealed. I do  
7           believe the judge ruled on this  
8           and rejected it, I think, but I  
9           don't know if it was sealed. I  
10          really don't know.

11       BY ATTORNEY MANSOUR:

12       Q.       So I will represent to you that  
13       it is not sealed.

14       A.       Okay.

15       Q.       Does it concern you that this  
16       information that you just characterize  
17       as confidential and sensitive is  
18       available to the public?

19       A.       So does it concern me? Yeah,  
20       absolutely. It's --- it's things  
21       that, again, can do us some harm. But  
22       in this particular case, a judge ruled  
23       on it, you know, and I'm not going to  
24       disagree with the judge. That's what  
25       lawyers are for. It wasn't --- there

1 we go.

2 Again, you know, the judge  
3 ruled on it. The judge decided that  
4 this would be public facing. And  
5 that's the way it goes. It's not ---  
6 you know, again, a legal person ruled  
7 on this. It's not like somebody  
8 picked up the phone and just started  
9 to talk about it. So the judge made  
10 her decision. I believe it's a her.  
11 I don't want to mischaracterize that,  
12 but --- and decided to put that out.

13 So that is not my favorite  
14 thing to have out there. I do feel  
15 like it is a little bit of a security  
16 risk for us, but so be it.

17 Q. Okay.

18 So I believe you testified a  
19 few moments ago, and correct me if I'm  
20 wrong, that the --- Mr. Kimbrough's  
21 statement that the intake unit was  
22 understaffed, not only do you disagree  
23 with that assessment, but you believe  
24 that statement is confidential and  
25 sensitive.

1           Is that correct?

2           A.       Well, yes, I do --- I do  
3       disagree with that. And if there are  
4       --- you know, staffing's not a secret  
5       in general. We --- you know, I'm very  
6       open about our staffing numbers. It's  
7       an industry wide thing throughout the  
8       entire country. I mean, just Google  
9       jail, prison staffing, you're going to  
10      come up with a ton of places that are  
11      struggling with staffing.

12           What we do is our staffing is  
13      dynamic. It's not static. We had to  
14      make changes. The old days of saying,  
15      you know, you have three people on  
16      this unit, four people in this unit,  
17      five people in this unit, one person  
18      on that unit, are over with staffing.  
19      You need to move your staff around  
20      now. You need to move your staff to  
21      where the acuity is.

22           So, you know, a good example in  
23      reception, there were not many inmates  
24      in reception that day. You don't need  
25      five staff down there. If there's a



1 heavy court day and 70 --- 60 to 70  
2 people are coming back from court,  
3 yeah. So, you know, we deploy our  
4 staff where they need to go. If ---  
5 if there's a high number of watches  
6 for suicide or medical, again, combine  
7 them in a unit, and we have to move  
8 some staffing from areas that are very  
9 quiet with not a lot of activity to  
10 areas of higher acuity.

11 And reception is one of those  
12 areas. It's feast or famine in there  
13 a lot of times. A lot of times there  
14 could be no inmates for 6, 8, 10, 12  
15 hours. There's no point in having  
16 somebody sit there at a desk when you  
17 can deploy them elsewhere to be more  
18 effective. And then if new  
19 commitments come in, you can move  
20 those people back there.

21 So these are decisions that,  
22 you know, the administrative, our  
23 security team, lieutenants and above  
24 have to look at and make decisions  
25 every day. You know, I've given

1 interviews to reporters on, you know,  
2 staffing. So it's --- listen, it's a  
3 bad situation. It's countrywide, it's  
4 every facility. There are very few  
5 facilities that can get the staffing  
6 in they need. So, yeah, not a secret.  
7 You know, reporters have talked about  
8 it. I've talked about it at prison  
9 board meetings, which are public. So  
10 it's a daily discussion.

11 We're going to have one right  
12 after we're done here today. We've  
13 got an Eagles parade tomorrow. So,  
14 you know, I anticipate that we're  
15 going to have some --- some issues  
16 with people coming in tomorrow, so  
17 ---.

18 Q. Okay.

19 So you just testified that  
20 yourself have spoken to reporters  
21 about staffing issues at the jail.

22 Correct?

23 A. Correct.

24 Q. Do you believe in the course of  
25 doing so your discussion of staffing

1 issues at the jail disclosed  
2 confidential information?

3 A. I don't, because we didn't have  
4 any specifics. We talked about  
5 staffing numbers, vacancy factors,  
6 which are all public knowledge  
7 reported at the prison board. There  
8 was one point in this --- I believe it  
9 was the summer, about a year and half  
10 ago, maybe it was two years ago, where  
11 to ensure the safety of reception, I  
12 had to ask the police departments to  
13 put a quick pause on new commitments  
14 coming in. We just had a very, very  
15 slim number of people showing up.

16 And again, by asking the police  
17 departments to hold the inmates in  
18 their holding cells for four or five  
19 hours gave us a chance to attend to  
20 our suicide watches, our medical  
21 watches, those things. And then we  
22 were able to unpause it once we got  
23 some staff in and some relief staff.

24 So I didn't go into detail on  
25 that. I didn't disclose that

1 information. You know, the reporters  
2 that I spoke to, I think there are  
3 about two over the history of this  
4 staffing vacancy issue were both very  
5 general statements that --- with  
6 publicly available information from  
7 the prison board that, yes, we have a  
8 vacancy factor.

9 Q. One of the other facts --- or  
10 opinions, rather, that Mr. Kimbrough  
11 shared with Attorney Zeiger in his  
12 phone call was that he believed  
13 Defendant Ulmer violated policy by not  
14 locking and searching the holding cell  
15 where Mr. Rhoades was believed to have  
16 hidden the drugs that he smuggled in.  
17 Do you believe that fact is  
18 confidential or sensitive?

19 A. Well, I think his claim was she  
20 was pulled from the post. Am I  
21 correct in assuming that?

22 Q. Correct. And one of the other  
23 things that he shared with Attorney  
24 Zeiger was that before being pulled  
25 from her post, she also failed to

1 search the holding cell and to lock  
2 it.

3 A. And so I--- I don't think she  
4 was pulled from her post. My research  
5 doesn't indicate that she was pulled.  
6 It indicates to me that she went to  
7 respond to a emergency in the  
8 building.

9 Q. Okay.

10 So she was ---.

11 A. Yeah. When she did so, it was  
12 her. And there was another officer  
13 posted there, but there was also  
14 another officer from across the hall  
15 where Lieutenant Kimbrough works, who  
16 happened to be on that module. And  
17 for whatever reason, again, she ---  
18 she responded to that code. I'm not  
19 going to Monday morning quarterback  
20 it. We have to make decisions on  
21 safety.

22 There was another officer  
23 there, so there were two people there.

24 Q. No, I --- and --- and I  
25 understand all that, but in ---. Mr.

1 Kimbrough shared that he believed she  
2 had failed ---. For whatever reason,  
3 she was pulled off the unit or left  
4 the unit, she was once there. At one  
5 point, she was no longer there. And  
6 before leaving the unit, she failed to  
7 search and secure the holding cell  
8 from Mr. Rhoades.

9 A. Right.

10 Q. Okay.

11 So that --- that opinion or  
12 that belief of Mr. Kimbrough, is that  
13 confidential or sensitive information?

14 A. So again, I think ---.

15 Q. That Officer Ulmer violated  
16 policy by failing to search and secure  
17 the cell?

18 A. So again, that opinion, I ---  
19 I'm hearing about this. He's the  
20 supervisor of that area. I don't  
21 believe he brought any of that  
22 information forth, at least not to my  
23 desk, that she violated any policies  
24 and procedures at the time. That may  
25 have been an afterthought after

1 ruminating on it. But I don't have  
2 any, you know, indication from him  
3 that there was a dereliction of duty.

4 Again, that would be a  
5 personnel issue. I don't --- I don't  
6 know how that stands out for Right to  
7 Know and things like that. So I can't  
8 intelligently speak to that. It  
9 should have been addressed. If there  
10 was a policy or procedure violation,  
11 it would have been appropriate for him  
12 to address that.

13 Q. Okay.

14 So going back to my original  
15 question, do you believe that  
16 statement was confidential or  
17 sensitive under your definition of  
18 those terms?

19 A. Yeah, yeah, I do. I do. I do  
20 believe it's --- it's an internal  
21 personnel matter, and I do believe  
22 that's confidential and sensitive.  
23 Again, the lawyers would have to work  
24 that out. It wouldn't be something  
25 that I would call a friend and talk to

1       about.    Have --- if I were compelled  
2       by subpoena or deposition, I certainly  
3       would discuss it and put my opinion in  
4       the record.

5       Q.       Okay.

6       A.       Can I just jump --- can I ask  
7       one quick question while we have all  
8       the lawyers? I --- any idea, are we  
9       about halfway through yet? I do want  
10      to take ---

11      Q.       Yeah.

12      A.       --- a two second bathroom  
13      break, but I do have prison board this  
14      afternoon, so ---.

15      Q.       I think we're at least halfway  
16      through.

17      A.       Okay.

18              Great. When you find a  
19      convenient, I wouldn't mind just a two  
20      sec --- two minute bathroom break, if  
21      that's okay with you.

22      Q.       Why don't we do it right ---?  
23      Yeah, that's fine. Why don't we do it  
24      right now? Why don't we take five  
25      ---?



1 A. It is a good time for --- for  
2 you to pause?

3 Q. That's fine. We can take five  
4 now.

5 ---

6 (WHEREUPON, A SHORT BREAK WAS TAKEN.)

7 ---

8 BY ATTORNEY MANSOUR:

9 Q. Okay.

10 Mr. Kratz, we are back on the  
11 record. I'm going to show you another  
12 document. I'm not going to mark this  
13 one again because it's already a part  
14 of the record. This is a document  
15 that was filed with the court as an  
16 exhibit to our response to the  
17 county's motion to dismiss in this  
18 case.

19 And I will represent to you  
20 that this is the county's response to  
21 Mr. Zeiger's motion to reopen  
22 discovery in the Patterson case.

23 Okay?

24 A. Understood.

25 Q. And I'll also represent to you

1       that this document is a part of the  
2       public record, not only in the  
3       Patterson case, but also in our case.  
4       And I want to show you a few items  
5       here and ask you some questions.

6               So I want to direct your  
7       attention, if you can see it ---

8       A.       I can.

9       Q.       --- to page five. In their  
10      response to Mr. Zeiger's motion, the  
11      county here stated Plaintiff, that is  
12      the Patterson Estate, believes  
13      Lieutenant Kimbrough will offer  
14      evidence that the intake unit was  
15      chronically understaffed, yet fails to  
16      articulate how this information makes  
17      any factor at issue in the case more  
18      or less likely.

19             The county's statement here  
20      about what it expects Lieutenant  
21      Kimbrough to testify about in terms of  
22      the intake unit being chronically  
23      understaffed, do you believe that the  
24      county disclosed confidential  
25      information by repeating that

1 statement?

2 A. I do not. Because they say ---  
3 they're not saying they agree with  
4 that. They're just saying that they  
5 think that's going to be entered into  
6 evidence from what I'm reading.

7 Q. Okay.

8 So Lieutenant Kimbrough, among  
9 other things, told Attorney Zeiger his  
10 opinion that the intake unit was  
11 chronically understaffed. And I think  
12 you testified earlier, you believe  
13 that that was confidential and  
14 sensitive information that he should  
15 not have shared.

16 Correct?

17 A. Correct.

18 Q. Okay.

19 Now, the county here in this  
20 response is resharing that  
21 information, essentially saying, this  
22 is what Lieutenant Kimbrough is  
23 saying, and this is why we don't think  
24 it's relevant. Do you believe the  
25 county here by repeating what

1 Lieutenant Kimbrough told Attorney  
2 Zeiger about chronic understaffing  
3 violated confidentiality?

4 A. I don't because they're ---  
5 they're rebutting the claim. They're  
6 rebutting his claim saying, you know,  
7 we aren't chronically understaffed.  
8 That's the way I understand ---

9 Q. So ---.

10 A. --- those words.

11 Q. So why is it that when  
12 Lieutenant Kimbrough told Attorney  
13 Zeiger his opinion about staffing  
14 levels at the intake unit, it was  
15 confidential, but you don't believe  
16 the same about the county's opinion  
17 about whether it was chronically  
18 understaffed?

19 ATTORNEY GRIESER:

20 Objection as to form.

21 Mischaracterizing evidence.

22 BY ATTORNEY MANSOUR:

23 Q. You can go ahead and answer,  
24 sir.

25 ATTORNEY GRIESER:

1 I'm sorry. Yes.

2 THE WITNESS:

3 So, again, Lieutenant  
4 Kimbrough picked up the phone.  
5 He wasn't compelled to give  
6 this information. For whatever  
7 reason, he injected himself  
8 into a case that was, I think,  
9 almost closed. Again, I don't  
10 --- I don't really know where  
11 that was.

12 He put that information  
13 out personally that he gleaned  
14 from professional --- his work.  
15 I mean, he would have not be  
16 able to formulate an opinion on  
17 what he thinks understaffed is  
18 if, you know, he's not at work.  
19 He's speaking as a lieutenant,  
20 and he's representing the  
21 department. And this --- these  
22 kinds of allegations, again,  
23 create, you know, disorder and  
24 safety issues.

25 The judge, for whatever

1           reason, put that out publicly,  
2           as it was just pointed out.  
3           And I can only assume that we  
4           had to rebut that as a county  
5           and try to articulate the  
6           inaccuracies. Again, I don't  
7           --- not a lawyer. Judge wants  
8           to put out this --- this answer  
9           is the public arena. To me, it  
10          basically spells out that  
11          information should have never  
12          gotten out there in the first  
13          place.

14       BY ATTORNEY MANSOUR:

15       Q.       Well, I want to clarify that  
16       this wasn't the judge. This is the  
17       county.

18       A.       Right.

19       Q.       I believe it was Ms. Grieser  
20       ---

21       A.       Yep.

22       Q.       --- who in this is repeating  
23       what Attorney Kimbrough said. So when  
24       Attorney Kimbrough said it, your  
25       opinion is it's confidential.

1 Right?

2 A. Correct.

3 Q. But when Ms. Grieser says it in  
4 this motion, it's not confidential.

5 Correct?

6 ATTORNEY GRIESER:

7 Objection. Asked and  
8 answered. You can answer,  
9 Dave.

10 THE WITNESS:

11 So again, he --- he put  
12 this out --- this information  
13 out, not in his official  
14 capacity, using information  
15 that he took from the  
16 Department of Corrections and  
17 formulated his opinion and put  
18 it out there, which, you know,  
19 requires a legal response.

20 So that information was  
21 out there. I don't know that  
22 the answer to this, this  
23 document put any more  
24 information out there. I think  
25 it just basically said, hey, we

1 don't agree with that.

2 BY ATTORNEY MANSOUR:

3 Q. If an inmate, for example,  
4 happened to get their hands on this  
5 document and saw, based on this  
6 document, that Lieutenant Kimbrough  
7 was claiming the intake unit was  
8 chronically understaffed, do you think that  
9 compromise --- that would compromise  
10 the security of the jail?

11 A. Oh, absolutely.

12 ATTORNEY GRIESER:

13 Objection as to form.  
14 Speculation. You can go ahead  
15 and answer, Dave.

16 THE WITNESS:

17 Yeah, absolutely. I  
18 mean, if an inmate gets a hold  
19 of this, and I'm sure they  
20 probably have it, you know,  
21 people look this stuff up all  
22 the time, so, you know, we'll  
23 wait to see how that plays out.  
24 But this really creates a lot  
25 of disorder and disruption of



1           our facility when this kind of  
2           bad information's put out  
3           there. So, you know, does ---  
4           will it be used for future  
5           false lawsuits? Do other staff  
6           members --- you know, do we  
7           lose trust in him for putting  
8           out false information? I mean,  
9           people are going to read that,  
10          and they're going to know that  
11          that's false information. So  
12          now you're talking about, you  
13          know, disruption, the lack of  
14          his authority, the lack of  
15          trust from the administrative  
16          team, all the way down to the  
17          officer.

18                 I'm sure there's some  
19          officers that may agree with  
20          him, but I also know that  
21          there's a lot officers that  
22          take a lot of pride in what  
23          they do, and they realize that  
24          that was not an unsafe  
25          situation down there. So,

1           yeah, I do believe that's ---  
2           falls under the realm of  
3           confidential.

4           BY ATTORNEY MANSOUR:

5           Q.       So Ms. Grieser disclosed this  
6           information in the course of her job  
7           duties, performing her job duties.

8                    Correct?

9           A.       That's my understanding.

10          Q.       And it was information that she  
11          gleaned as a result of her employment  
12          with the county.

13                   Correct?

14          A.       I believe it's information she  
15          gleaned as a result of the allegations  
16          in the filing. I don't know that Ms.  
17          Grieser is really drilling down to ---  
18          to the staffing levels at reception on  
19          that particular night. I think it's  
20          something that the county had to offer  
21          a response to.

22                   Again, not an attorney. I  
23          understand basic legal procedure, but  
24          my understanding is we had to answer  
25          for the judge an opinion as to why the

1 case shouldn't be reopened and she  
2 answered that. And I believe it --- I  
3 believe it wasn't reopened as a matter  
4 of course.

5 So, you know, again, he put the  
6 information out there. He put the  
7 ball in play. Can't put the  
8 toothpaste back in the tube. She had  
9 to take that ball, and she had to do  
10 the best she could with it to rebut  
11 the false accusations.

12 Q. So are you saying that --- so  
13 Ms. Grieser repeating what Attorney  
14 Kimbrough allegedly said, did that  
15 cause security concerns in the jail?

16 ATTORNEY GRIESER:

17 Objection as to form.

18 Asked to answer. Speculation.

19 THE WITNESS:

20 Listen, you know,  
21 people, once --- once it's out  
22 there, I think it got out there  
23 improperly. I think it was a  
24 violation of confidentiality  
25 and work rules to put that out

1           there. You know, if WikiLeaks  
2 publishes something and the AP  
3 picks it up the next day and  
4 regurgitates it or puts their  
5 own little spin on it, you  
6 know, what can you do? It's  
7 out there.

8           So I believe, reading  
9 this section right here, again,  
10 we had to answer these  
11 allegations and put to rest  
12 these falsehoods. I think  
13 that's what Ms. Grieser's ---  
14 I'm not going to call it a  
15 brief, but response was to the  
16 motion.

17 BY ATTORNEY MANSOUR:

18 Q.       Okay.

19           And then I also want to direct  
20 your attention to this paragraph here,  
21 where, as part of their response,  
22 again, the county repeats that  
23 Lieutenant Kimbrough's opinion that,  
24 quote, Defendant Ulmer should have  
25 locked the dirty cell after Rhoades

1 was taken to be searched, and her not  
2 locking the door is in violation of  
3 BCCF policy, do you believe that's  
4 confidential and sensitive  
5 information? Mr. Kimbrough's opinion  
6 about what Officer Ulmer should have  
7 done and whether or not it was a  
8 breach of policy.

9 A. So, again, if that was his  
10 opinion and he was deposed or  
11 subpoenaed, that's one thing. But  
12 again, to pick up the phone and put  
13 your opinion out there, and it being,  
14 again, an internal process, I think  
15 confidential information was  
16 disclosed. You know, the answer's not  
17 going to change the law. The law  
18 department, in my opinion, had to  
19 answer this. Again, not a lawyer, but  
20 this was the response to the, you  
21 know, allegations made and the trying  
22 to get the case reopened.

23 Q. Okay.

24 So Mr. Kimbrough made what you  
25 believe are confidential and sensitive

1        comments or shared confidential and  
2        sensitive information with Attorney  
3        Zeiger.

4                Correct?

5        A.        I do, yes.

6        Q.        And then Ms. Grieser, in this  
7        response to the Plaintiff's motion,  
8        repeated some of what Attorney --- or  
9        Mr. Kimbrough shared with Attorney  
10       Zeiger.

11               Correct?

12       A.        Correct. I don't know that you  
13       could rebut that information without  
14       repeating that information. I mean,  
15       she could have --- she can't just say,  
16       he's wrong. I think she had to  
17       address each one of the claims  
18       individually. Again, not a lawyer,  
19       but it sounds logical to me, and that,  
20       to me, looks like what she did.

21               I don't believe she disclosed  
22       any further information that already  
23       wasn't put out there and, again, had  
24       to answer these accusations.

25       Q.        And you don't believe sharing

1       this confidential information with the  
2       public in the form of this filing was  
3       a breach of confidentiality?

4       A.       I don't, because it's resharing  
5       information. It's not new  
6       information. As far as I can tell,  
7       she didn't supplement anything with  
8       any confidential information. It  
9       looks like the accusations or the  
10      claims were answered and that, you  
11      know, she responded in kind to  
12      basically say let's not open this  
13      case. I'm sure she made many, many  
14      arguments in there that I'm not aware  
15      of, but to me, it's already out there.

16      Q.       You --- you said you've been  
17      the director of corrections for four  
18      years.

19      A.       I think it's three to four. I  
20      think we're coming up on four.

21      Q.       Okay.

22              So --- so in September of 2023,  
23      you would have been the director of  
24      corrections.

25      A.       Yeah, I'm horrible with dates.

1 I was probably acting then, if I  
2 wasn't director. I'd have to look up  
3 my --- my promotional date.

4 Q. Are you aware of an instance in  
5 which emails regarding the staffing of  
6 the intake unit were anonymously  
7 disclosed to reporters?

8 ATTORNEY GRIESER:

9 Relevant. You can go  
10 ahead and answer, Dave, if you  
11 know.

12 THE WITNESS:

13 Not --- no. Are you ---  
14 wait, wait a minute. You know,  
15 jogging my memory. Are you  
16 talking about the night that we  
17 put a pause on reception  
18 intakes and they were disclosed  
19 by the police departments?

20 BY ATTORNEY MANSOUR:

21 Q. Well, I'll show you what I'm  
22 talking about.

23 A. Okay.

24 That'd probably be helpful.

25 Q. Okay.



1           So this is a document that I've  
2       marked as P-11.

3                               ---

4                               (Whereupon, Exhibit P-  
5                               11, Insidesources  
6                               Article, was marked for  
7                               identification.)

8                               ---

9       BY ATTORNEY MANSOUR:

10       Q.       I think I'm on the right ---.

11       A.       Yeah, yeah, that's ---.   Yep.  
12       I don't even need to read it.   I  
13       understand exactly ---

14       Q.       Okay.

15       A.       --- what you're talking about.

16       Q.       So you've seen this article  
17       before?

18       A.       Yes.

19       Q.       Okay.

20               And this article appears to be  
21       centered around an email that was  
22       disclosed to a reporter regarding the  
23       jail closing the intake process for  
24       new inmates during a particular  
25       overnight shift in August ---

1 A. Uh-huh.

2 Q. --- 2023. Do you recall that?

3 A. Yeah, I do.

4 Q. According to this article, the  
5 email that was disclosed indicated  
6 that from August 19th, 2023 into the  
7 morning of August 20th, the intake was  
8 --- desk was closed because of a large  
9 number of medical transfers which  
10 required eight officers to be  
11 relocated to off campus watches.

12 A. Okay.

13 Understood.

14 Q. According to an email from  
15 James O'Malley.

16 A. Yep, understood.

17 Q. And that email apparently  
18 continues an additional two officers  
19 were on constant watch unable to  
20 perform intake duties. And we have no  
21 awareness of anyone unable to be  
22 processed through intake during that  
23 time period. Did the jail or the  
24 county ever investigate who leaked  
25 this email to the press?

1 A. I can't say. I think somebody  
2 took credit for it in that article, if  
3 I remember properly.

4 Q. I don't think ---.

5 A. Pollock, I think it says at the  
6 next paragraph.

7 Q. Well, that was --- that was one  
8 of the authors of the email, but I  
9 don't think that's the person who  
10 disclosed this email.

11 A. Okay.

12 Q. That information, so --- that  
13 the intake desk was closed overnight  
14 between August 19th and August 20th  
15 due to a large number of medical  
16 transfers which required eight  
17 officers to be relocated to an off  
18 campus --- to off campus watches, is  
19 that confidential and sensitive  
20 information?

21 A. Absolutely.

22 Q. Do you know whether the county  
23 ever investigated who released this  
24 email to the press?

25 A. I do not.

1 Q. And that was an email  
2 apparently from, like I said, James  
3 O'Malley.

4 A. So James O'Malley ---.

5 Q. So this was on August 30th ---  
6 it says here --- I'm just going to  
7 highlight it quickly. On August 30th,  
8 an email was circulated widely among  
9 county employees which said for  
10 tonight between 10:00 p.m. and 5:00  
11 a.m. the reception desk at the jail is  
12 closed for intake due to significant  
13 staffing shortages. No new  
14 commitments can come to the BCP during  
15 the overnight hours. High profile  
16 issues should be directed to the  
17 lieutenant on duty.

18 Did I read that correctly?

19 A. Yes.

20 Q. Okay.

21 And then an email on August  
22 31st from Robert Pollock. Who is  
23 Robert Pollock?

24 A. He's a deputy court minor  
25 judiciary administrator.

1 Q. Okay.

2 So according to an email from  
3 him on August 31st, it says here,  
4 yesterday Director Kratz from BCCF  
5 contacted me to inform me about a  
6 critical staffing shortage they have  
7 been experiencing at the prison.  
8 Approximately one week ago they had to  
9 close reception from 11:00 to 5:00  
10 a.m. because they did not have the  
11 minimum number of staff to safely run  
12 the prison. This meant they could not  
13 take any new commits during that time.  
14 While it did not affect the district  
15 courts, it did affect the constables  
16 and police.

17 Is that information  
18 confidential and sensitive?

19 A. So again, I --- I don't --- I  
20 do agree that it's confidential and  
21 sesn --- and sensitive. It creates  
22 disruption. However, again, those are  
23 his words, not mine.

24 Q. Fine. And then it says the two  
25 emails above were provided anonymously

1 to Broad and Liberty.

2 A. Yep.

3 Q. So as far as I know, this  
4 article does not disclose who those  
5 individuals were. And your testimony  
6 is as far as you're aware, you're not  
7 --- you don't know of any  
8 investigation that the county or the  
9 jail did to find out who the source of  
10 that --- those emails were?

11 A. Yeah, that would not be  
12 something I would be privy to.

13 Q. Now, it says when contacted for  
14 comment, the county provided a follow  
15 up email not originally in Broad and  
16 Liberty's possession, which showed the  
17 situation the night on the 30th was  
18 diffused.

19 That email says, although there  
20 may be some delays in getting  
21 prisoners into reception, depending on  
22 the volume, medical emergencies and  
23 any additional call outs, we will be  
24 able to keep reception running through  
25 the night, said the email from David

1       Kratz, director of the county's  
2       Department of Corrections. Please be  
3       patient as things will likely be  
4       running slowly at time, Kratz said in  
5       an email about six hours after  
6       Pollock. O'Malley pointed out that  
7       the new set of recruits were installed  
8       last week.

9               So my question to you is that  
10       disclosure of your email, does that  
11       --- did that email contain  
12       confidential and sensitive  
13       information?

14       A.       Absolutely. And again, my  
15       communications were very different. I  
16       didn't just pick up the phone and make  
17       comment. I --- I specifically --- we  
18       had issues. We knew --- we knew it  
19       was going to be a rough night.

20               I reached out to law  
21       enforcement. I reached out to the  
22       people who need to know that there's  
23       going to be delays and asking for a  
24       little bit of wiggle room with  
25       receiving prisoners that night.

1 Q. Okay.

2 A. That's purely business. Now  
3 again, I --- I did not put this out to  
4 the public. Some police officer or  
5 somebody that got a copy of it put it  
6 out to the public. Again, that's on  
7 them. This is in the course of  
8 business and keeping operations safe.

9 Like I said, with staffing, you  
10 know, sometimes we got to move some  
11 things around. Rather than take in  
12 five or ten inmates that night and not  
13 be able to be safe, we asked the  
14 departments to hold them in their  
15 holding cells for a couple hours.  
16 Luckily for us, there was no arrests  
17 that night and we didn't really have  
18 to do anything.

19 And again, along the line of  
20 safety, any high profile cases that  
21 they couldn't keep in their holding  
22 cells, we would have taken in on a  
23 one-for-one basis. So again, I didn't  
24 put this information out. I didn't  
25 pick up the phone and call a reporter.



1 I didn't call an attorney. I put this  
2 information out to the chiefs of  
3 police. What they did with it after  
4 that is, you know --- yeah, they  
5 disclosed confidential information, in  
6 my opinion.

7 Q. Okay.

8 Well, your email that we just  
9 read was disclosed to Broad and  
10 Liberty by Mr. O'Malley.

11 Okay.

12 A. Uh-huh.

13 Q. Did Mr. O'Malley violate county  
14 policy by disclosing confidential and  
15 sensitive information?

16 A. So --- so the section that's  
17 highlighted right there?

18 Q. Correct, that's from your email  
19 that was disclosed by Mr. O'Malley.

20 A. So it's a very general  
21 statement. And again, public  
22 information is not my arena. I don't  
23 --- you know, I'm not public  
24 information person. That's also a  
25 good point. I don't speak to

1 reporters, attorneys, public citizens.  
2 I --- I push that off to the  
3 communications department. They may  
4 authorize me to talk to people. Mr.  
5 O'Malley is one of the county  
6 communications people.

7 In that response, again, the  
8 information was already out. Somebody  
9 had already put out the original  
10 email. I don't see any specifics in  
11 there saying that, you know, jobs  
12 weren't getting done, people were  
13 negligent in their posts, that, you  
14 know, doors were open, areas were  
15 understaffed. He doesn't put anything  
16 specific out there.

17 He just basically tells  
18 everybody that, you know, hey, we  
19 didn't need to pause on any  
20 admissions. It was a really rough  
21 night. We had a lot of people in the  
22 hospital, unfortunately, took a lot of  
23 staffing out of the building and be  
24 patient. You know, that's all that  
25 really says to me. We're going to be

1 burning a little bit slowly from where  
2 we're at. And that's good  
3 communication with our law enforcement  
4 partners.

5 Q. Do you believe if inmates knew  
6 that medical emergencies in the jail  
7 would result in delayed processing,  
8 they would be able to use that to  
9 undermine jail security?

10 A. Of course.

11 Q. So the fact here in your emails  
12 is, although there may be some delays  
13 in getting prisoners into reception,  
14 depending on the volume, medical  
15 emergencies and any additional call  
16 outs, we'll be able to keep reception  
17 running through the night. So don't  
18 you think that somebody reading that,  
19 who sees, for example, things like  
20 volume and medical emergencies and  
21 call would maybe make it easier to  
22 compromise the security of the jail  
23 compound?

24 ATTORNEY GRIESER:

25 Objection as to form.

1 Compound. You can answer.

2 THE WITNESS:

3 So again, general  
4 statement, it doesn't say that  
5 there were seven people in the  
6 hospital with 14 guards being  
7 drawn from the post. It  
8 doesn't say that we had a high  
9 volume. Again, you never know  
10 who's going to walk through the  
11 door. And it didn't say we  
12 had, you know --- and again,  
13 these are hypothetical --- 35  
14 people called out sick. Right.

15 It doesn't give numbers,  
16 it doesn't give specifics.  
17 It's just basically a response  
18 to a document that somebody who  
19 --- you know, in law  
20 enforcement, who has the right  
21 to have that information  
22 decided to share with Broad and  
23 Liberty. And I can't control  
24 that. I can't control, you  
25 know --- if I knew who leaked

1           that confidential information  
2           and I had recourse, I probably  
3           would push it, but ---.

4           BY ATTORNEY MANSOUR:

5           Q.       Okay.

6                   Well that information, your  
7           email that we're quoting here, right,  
8           the one that's highlighted that's  
9           quoting you, was released by Mr.  
10          O'Malley?

11          A.       Okay.

12                  Yep.

13          Q.       And in there he --- you know,  
14          in the email that he shared, it refers  
15          to, for example, any additional call  
16          outs, which I assume refers to  
17          employees. Don't you think employment  
18          employee call outs is confidential and  
19          sensitive?

20                   ATTORNEY GRIESER:

21                   Objection as to form.

22                  Asked and answered.

23                   THE WITNESS:

24                   So, so again, I know  
25                  we've been going down this lane

1           between inmate and staff. So  
2           if an inmate wants to talk to  
3           his mother and say, hey, call a  
4           reporter, I think the jail is  
5           understaffed, that's their  
6           business. They don't know,  
7           they don't have the  
8           documentation.

9                       If one of my lieutenants  
10          wants to call a reporter or  
11          somebody in the public and say,  
12          you know, we're drastically  
13          understaffed. I had 13 people  
14          not come to work today and we  
15          have 14 people in the hospital.  
16          Again, that's confidential  
17          information. I can't control  
18          what the inmate thinks they  
19          know that they're going to tell  
20          people. However, my  
21          lieutenant, my staff, my  
22          officers, they should not ---  
23          myself, we should not be  
24          talking to non-criminal justice  
25          ---.

1 BY ATTORNEY MANSOUR:

2 Q. But this wasn't an inmate, sir.  
3 This was the county spokesman.

4 A. And again, in answer to  
5 information that was leaked --- I  
6 would say not leaked. But somebody  
7 provided confidential information,  
8 somebody in law enforcement. That  
9 email went to a very small group of  
10 law enforcement personnel. Should not  
11 have been sent to Broad and Liberty.  
12 I can't comment as to why they might  
13 do that. I don't know why somebody  
14 would jeopardize safety, especially,  
15 you know, the people that got that  
16 email were all law enforcement.

17 But the response, I think, is  
18 appropriate because it just basically  
19 acknowledges the fact that it was ---  
20 it was a difficult night. But there  
21 are no specifics in there. It doesn't  
22 say anything about somebody leaving a  
23 door open or the number of call outs  
24 or, you know, extreme volume. So,  
25 yeah, I mean, to me, that's --- that's

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1 an appropriate response, but that ---  
2 again, just like the court documents  
3 you showed me, that information was  
4 already out there. We're just  
5 responding to it. We didn't put it  
6 out there.

7 Q. So ---.

8 A. I didn't have a press  
9 conference.

10 Q. No, you're right. But the  
11 email --- this email that's  
12 highlighted here was not already out  
13 there.

14 ATTORNEY GRIESER:

15 Objection. Asked and  
16 answered five minutes ago.

17 BY ATTORNEY MANSOUR:

18 Q. It was --- that was provided to  
19 Broad and Liberty by Mr. O'Malley in  
20 response to the email that was already  
21 out there. And it provided new  
22 information, for example, that there  
23 may be some delays in getting  
24 prisoners into reception. Don't you  
25 think that's sensitive and



1 confidential information? The public  
2 should not know whether or not there  
3 are going to be delays in processing  
4 inmates?

5 ATTORNEY GRIESER:

6 Objection as to form.

7 It's getting argumentative  
8 here. My client is more than  
9 willing to answer your  
10 questions. However, I would  
11 respectfully request that you  
12 use a more respectful tone when  
13 speaking with Director Kratz.

14 BY ATTORNEY MANSOUR:

15 Q. Go ahead, Mr. Kratz. Do you  
16 believe my tone was disrespectful in  
17 any way? If it is, I apologize.

18 A. Understood. No, I --- I feel  
19 like we're going over the same ---  
20 same information over and over again.  
21 Again, my response would be that  
22 information was put out there, should  
23 not have been put out there by  
24 somebody in law enforcement. The  
25 answer --- again, I would not do a

1 press conference on this. The  
2 information was already out there.  
3 And basically what Mr. O'Malley is  
4 saying is that, you know, the public  
5 was safe, the jail was safe. We got  
6 through a big bump in the road. It's  
7 going to happen. It's going to happen  
8 in jails all the time. I mean, it  
9 just --- if you have a mass arrest and  
10 40 people come in, I'm going to talk  
11 to the chiefs of police and let them  
12 know that our intake process is going  
13 to be slowed down.

14 It's what I would call good  
15 communication with the chiefs and the  
16 law enforcement stakeholders, the  
17 sheriffs. Again, they should not have  
18 put that information out there to the  
19 public. They chose to. There was a  
20 lot of questions from reporters,  
21 communications. The Department  
22 decided to respond back with that  
23 statement, which to me, again, is a  
24 reassuring statement. You know, there  
25 might be delays, but delays happen.

1 Delays happen everywhere. You know,  
2 it's not a hotel, it's not an airport,  
3 but they have delays.

4 Additional call outs, you know,  
5 those types of things, again, it  
6 doesn't say numbers, it doesn't say  
7 how many people are in the hospital,  
8 you know, how many officers are  
9 supervising people out there. It's  
10 --- it's a very benign statement,  
11 basically telling law enforcement  
12 that, you know, be patient.

13 Q. Well, isn't the number of call  
14 outs something that only a person  
15 employed by the county would know?  
16 Isn't that information that would be  
17 gained by --- through somebody's  
18 employment with the county?

19 A. Yeah, absolutely. And that's  
20 it --- that's a perfect example of  
21 things that you glean from your work  
22 experience that you shouldn't put out  
23 there. I can look up today how many  
24 people called out. I'm not going to  
25 call a reporter or an attorney or a

1 friend and say, oh my gosh, you know,  
2 it's a record number of call outs  
3 today. The jail's not safe. That's  
4 not my forum for that.

5 And unfortunately, you know,  
6 when you run a facility, you have to  
7 --- like I said, you have to be very  
8 dynamic with your staffing. You don't  
9 know what's going to happen. I use  
10 the example of the Eagle's parade  
11 Friday or the Super Bowl on Sunday.  
12 Those are going to be days where a  
13 thinking person with common sense  
14 knows that a lot more people are going  
15 to be calling out sick to go to those  
16 events. So that's, you know,  
17 something that you would glean from  
18 your --- your employment.

19 You know, if 45 people called  
20 out sick tomorrow or Friday for the  
21 parade, not a number I'm going to  
22 share. You know, I don't need the  
23 inmates to know that number. I don't  
24 need the staff to know that number.  
25 It could --- it would create an unsafe

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1 type environment, so it, you know ---.

2 Q. What about saying --- so what  
3 about a situation where instead of  
4 saying specifically there are 15 call  
5 outs, somebody just told a reporter  
6 there were a lot of call outs?

7 A. Again, ---.

8 Q. Would that ---?

9 ATTORNEY GRIESER:

10 Objection as to form and  
11 asked and answered. Vague.

12 THE WITNESS:

13 Where is that  
14 information coming from? The  
15 average person on the street,  
16 the average officer working for  
17 the jail does not know how many  
18 people are calling out. People  
19 with a higher level of  
20 responsibility, my lieutenants  
21 --- certain lieutenants, not  
22 even every lieutenant has  
23 access to that, have that  
24 information. It's part of what  
25 we need to do our jobs.

1 BY ATTORNEY MANSOUR:

2 Q. Correct. And you sent an email  
3 saying that there were --- that there  
4 were delays in getting prisoners into  
5 reception. That is something you and  
6 other people working in the jail would  
7 know.

8 Right?

9 ATTORNEY GRIESER:

10 Objection. Asked and  
11 answered.

12 THE WITNESS:

13 And again, I sent that  
14 email to law enforcement, sworn  
15 law enforcement, that had a  
16 stake in transporting and  
17 bringing prisoners into the  
18 jail. I did not send that to  
19 Attorney Zeiger, Broad and  
20 Liberty, the local reporter.  
21 Right.

22 I sent it to the people  
23 who will be bringing prisoners  
24 into my facility, letting them  
25 know that things are going to

1           be slower and asking them to  
2           hold some folks for us for a  
3           little bit of time.

4       BY ATTORNEY MANSOUR:

5       Q.       Okay.

6           And you didn't disclose that  
7       information to Attorney Zeiger or  
8       Broad and Liberty or anybody else,  
9       because it's confidential and  
10      sensitive.

11           Right?

12      A.       Correct.

13      Q.       Okay.

14           But then Mr. O'Malley disclosed  
15      that email of yours to the press.

16           Right?

17      A.       Yeah, yeah. Correct.

18      Q.       Why wasn't Mr. O'Malley fired  
19      for breaching confidentiality?

20      A.       So I think, you know, I'm going  
21      to go into my Latin, nunc pro tunc,  
22      before rather than after. Why? The  
23      only reason Mr. O'Malley responded to  
24      that was because, again, just like  
25      Kimbrough's information to Attorney

1 Zeiger, that information was put out  
2 and it wasn't necessarily accurate,  
3 you know, in the context.

4 So he's --- in my opinion, he's  
5 answering the hundreds of emails that  
6 probably came in on that. This was  
7 given to law enforcement people.  
8 Somebody violated that trust. It  
9 wasn't Mr. O'Malley and it wasn't me.  
10 Mr. O'Malley's statement, you know, we  
11 can argue about confidentiality and  
12 that all day long. He's responding to  
13 information and the violation of  
14 confidentiality that already happened.

15 To not respond, I think would  
16 be irresponsible and probably create  
17 panic throughout the public. The  
18 public needs to know that we're  
19 operating and we're operating safely.  
20 Q. And in order to do that, it may  
21 be --- it's permissible, you're  
22 saying, to disclose confidential or  
23 sensitive information if it's in  
24 response to other confidential or  
25 sensitive information?



1 A. I would say ---.

2 ATTORNEY GRIESER:

3 Objection as to form.

4 Asked and answered.

5 THE WITNESS:

6 I would say he didn't  
7 disclose confidential  
8 information. I would say that  
9 he took information that was  
10 published that shouldn't have  
11 been and regurgitated it. I  
12 don't think he added anything  
13 new.

14 BY ATTORNEY MANSOUR:

15 Q. Well, he did. He provided your  
16 email that had not previously been  
17 disclosed.

18 A. But --- but no additional  
19 information.

20 Q. Okay.

21 Do you think the public has a  
22 right to know about the staffing  
23 levels at the correctional facility?

24 A. I do. As far as vacancies, I  
25 mean, I think that's public knowledge.

1 That's out of the prison board.

2 Q. Well, more generally, whether  
3 --- whether the jail is adequately  
4 staffed for its needs. Do you think  
5 that's something the public has a  
6 right to know?

7 A. When you say adequately staffed  
8 ---?

9 Q. Adequately staffed to maintain  
10 its needs in terms of security,  
11 supervision, everything else, do you  
12 think the public has a right to know  
13 that information?

14 A. Yeah, we do provide we are  
15 adequately staffed. We would ---.

16 Q. What I'm saying is, if the jail  
17 was understaffed and didn't have  
18 enough people to maintain adequate  
19 security, do you think the public has  
20 a right to know that information?

21 A. I really don't have an opinion  
22 on that one. That --- again, I have a  
23 communications department that would  
24 handle that information. Not to the  
25 extent that we would disclose

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1 confidential information, but again, I  
2 would have to defer to our public ---  
3 or sorry, communications department on  
4 that.

5 Q. If corrections officers or  
6 other jail employees were violating  
7 policy, do you think the public has a  
8 right to know that information?

9 ATTORNEY GRIESER:

10 Objection. Vague. You  
11 can go ahead and answer, Dave.

12 THE WITNESS:

13 I was just going to say  
14 you're going to have to be a  
15 little more specific when you  
16 say violating policy.

17 BY ATTORNEY MANSOUR:

18 Q. Violating jail policies with  
19 regard to its operations, do you think  
20 the public has a right to know about  
21 that information?

22 A. Again, I don't have an opinion  
23 on that. If somebody violates policy,  
24 there's a disciplinary process,  
25 there's coaching and counseling.

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1       There's all kinds of things that enter  
2       the HR world. It's not my area  
3       whether or not they disclose anything  
4       or if they did disclose, how much they  
5       would redact from disclosure, if there  
6       were a Right to Know.

7       Q.       If employees were making  
8       complaints about policy violations to  
9       management and management was ignoring  
10      those complaints, do you think the  
11      public has a right to know that  
12      information?

13                   ATTORNEY GRIESER:

14                   Objection. Vague.

15                   THE WITNESS:

16                   So I would go back to my  
17                   same answer. Again, you know,  
18                   I could tell you that I'm not  
19                   ignoring anything. If  
20                   something were being ignored,  
21                   there's a process in place that  
22                   I'm sure human resources, the  
23                   law department, would get  
24                   involved in, and where that  
25                   goes wouldn't be up to me and

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1           how that would get disclosed to  
2           the public. I don't disclose  
3           things to the public. I mean,  
4           that's generally --- that's our  
5           rule. Like we have a --- we  
6           have a public information --- I  
7           keep saying --- I mean to say  
8           communications department.  
9           Things that go out to the  
10          public go through the  
11          communications department, not  
12          --- not me.

13                       So anytime that I speak  
14           to the public about anything,  
15           which is a rarity, I've spoken  
16           to the public information  
17           department and they've given me  
18           permission to do an interview  
19           or to speak to a reporter.  
20           Because pretty much every ---  
21           everything we do here is  
22           confidential. It disrupts, you  
23           know, the organization when  
24           things get out. It can be a  
25           safety issue. And some of this

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1 is absolutely public, you know,  
2 payrolls, things like that.  
3 But again, that's not for me to  
4 decide as a director. I have  
5 other people that weigh in  
6 that.

7 BY ATTORNEY MANSOUR:

8 Q. If Mr. Kimbrough disclosed the  
9 information that he did to Attorney  
10 Zeiger --- so we went over that  
11 earlier, right, the information that  
12 Mr. Kimbrough disclosed to Attorney  
13 Zeiger. If he disclosed that same  
14 information to his psychotherapist,  
15 would that have been a breach of  
16 confidentiality?

17 ATTORNEY GRIESER:

18 Objection. Vague.

19 ATTORNEY MANSOUR:

20 In your view.

21 ATTORNEY GRIESER:

22 You can go ahead and  
23 answer.

24 THE WITNESS:

25 So again, not knowing

1           the tenets of  
2           psychotherapist's, you know,  
3           clause. I'm assuming when you  
4           --- when you meet with a  
5           therapist, that's confidential  
6           information. I can tell you,  
7           you know, in my short  
8           experience, unless you're a  
9           danger to yourself or other  
10          people, that stuff's  
11          confidential. So can't really  
12          say, you know, what you process  
13          with your psychotherapist.

14          BY ATTORNEY MANSOUR:

15          Q.       So you don't have an opinion on  
16          that. You can't say ---?

17          A.       I don't have an educated  
18          opinion on that. I think, you know,  
19          mental health's mental health. And if  
20          you're being treated for something and  
21          you're seeing a psychotherapist, you  
22          got to abide by the rules there.

23          Q.       If Mr. Kim ---.

24          A.       I can't imagine a situation  
25          where a psychotherapist would divulge

1       that kind of information. If they  
2       did, I imagine they'd be subject to  
3       licensure and sanctions, but not my  
4       world.

5       Q.       If Mr. Kimbrough had disclosed  
6       the same information to a close family  
7       member of his, would that have been a  
8       breach of confidentiality that would  
9       have resulted in his termination?

10      A.       Yeah, I mean, it --- obviously,  
11      people talk, I'm sure, but yeah,  
12      that's absolutely a confidential  
13      violation. Again, it's a need to know  
14      thing when it's security, when it's in  
15      the jail. I mean, it's one thing to  
16      go home to your spouse or significant  
17      other and say, I had a rough day  
18      today, boy, it was busy. It's another  
19      thing to say, I think, you know, this,  
20      and this happened, and X, Y and Z  
21      happened as a result of it. And yeah,  
22      they shouldn't be discussing that kind  
23      of information.

24              A general discussion with your  
25      spouse is one thing, but specifics ---



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1       yeah, and friends, family, you --- you  
2       get --- in this world, you get  
3       contacts, especially in that records  
4       department, you know, a cousin of a  
5       police officer will want information.  
6       The answer's no. The friend of a  
7       judge wants information, the answer's  
8       no. I mean, we don't give that  
9       information out. There's methods for  
10      people to get that information  
11      legally, if they're entitled to it.

12               Excuse me.

13      Q.       There was surveillance video  
14      that captured the Rhoades incident, of  
15      him being processed and concealing the  
16      drugs and smuggling them into the  
17      jail.

18               Correct?

19      A.       Correct.

20      Q.       That surveillance video and  
21      what it depicts, is that confidential  
22      and sensitive information?

23      A.       Absolutely. We've gone to  
24      court to defend that successfully.

25      Q.       Okay.

1           So let me show you --- hold on  
2           one second.

3                     ATTORNEY MANSOUR:

4                     What are we up to now?

5           P-13. Is that right, Court  
6           Reporter?

7                     COURT REPORTER:

8                     The last exhibit, P-11.

9                     ATTORNEY MANSOUR:

10           P-11. Okay.

11                    Actually --- so I'm  
12           going to mark this --- I have  
13           another one marked P-12. So  
14           I'm going to mark this one P-  
15           13.

16                    ---

17                    (Whereupon, Exhibit P-  
18           13, Phillyburbs.com  
19           Article, was marked for  
20           identification.)

21                    ---

22                    ATTORNEY GRIESER:

23                    Have you admitted P-12?

24                    ATTORNEY MANSOUR:

25                    Not yet, but I ---.

1 ATTORNEY GRIESER:

2 You want to do them out  
3 of order?

4 ATTORNEY MANSOUR:

5 Yeah, I'm just doing  
6 them out of order.

7 BY ATTORNEY MANSOUR:

8 Q. Okay.

9 So, Mr. Kratz, this is a  
10 document I'm marking as P-12 (sic).  
11 It is Bates stamped at the bottom  
12 right-hand corner here Kimbrough 0147  
13 through Kimbrough 0149. And this is a  
14 news article from Phillyburbs.com also  
15 known as the Bucks County Courier  
16 Times from October 1st, 20234  
17 regarding the sentencing of Mr.  
18 Rhoades and his --- relating to the  
19 smuggling of drugs into the jail.

20 And in this video --- or I'm  
21 sorry, in this article, it gives a  
22 pretty detailed description of the  
23 surveillance video regarding his  
24 smuggling drugs into the jail, the  
25 area that I highlighted. It says on

1 the surveillance video, Rhoades was  
2 seen twice removing the drugs from his  
3 underwear and concealing them first in  
4 a sandwich wrapper, then a brown bag  
5 that contained a prison issued meal  
6 and last a prison issued clothing bag  
7 before he was moved to the general  
8 population area the affidavit said.

9 Did I read that correctly?

10 A. Yes.

11 Q. That information there  
12 describing what's depicted on the  
13 surveillance video, that's  
14 confidential and sensitive  
15 information?

16 A. Well, you know, again, did ---  
17 who viewed the surveillance video?  
18 That article doesn't say that it was  
19 presented to the public. My suspicion  
20 would be it was in the probable cause  
21 affidavit when we affected the arrest.  
22 So you know, again --- or the judge's  
23 decision maybe.

24 Nobody called somebody up and  
25 said hey, I have surveillance video, I

1 want to give you a look at. This was  
2 done through proper channels. That  
3 information in itself, you know, is  
4 not necessarily as damning as a --- or  
5 as security sensitive as a video where  
6 it shows, you know, egresses, holding  
7 cells, physical layouts, all kinds of  
8 things like that.

9 But again, that information,  
10 nobody picked up a phone and said hey,  
11 I got --- I got a video that I want  
12 you to see about somebody putting  
13 drugs in their underwear. This came  
14 out as a result of an arrest and  
15 litigation and a courtroom appearance  
16 and a sentencing within a judge.

17 So again, I can't control that.  
18 I can only control what my people can  
19 do as far as releasing information.  
20 If, you know, an investigator or the  
21 district attorney does an  
22 investigation and puts that  
23 information in there, so be it.

24 Q. So you're telling me that the  
25 jail has no ability to correspond with

1 other law enforcement agencies to make  
2 sure that confidential and sensitive  
3 information is not disclosed to the  
4 public?

5 A. You know, again, we can go  
6 around and around on the same --- same  
7 thing, but nobody picked up a phone  
8 and said I got video. This came out  
9 as a result of a criminal  
10 investigation. I'm assuming that's my  
11 guess.

12 Q. But wouldn't that be ---  
13 wouldn't it be sensitive information?  
14 Wouldn't this kind of information  
15 compromise the security of the jail?

16 ATTORNEY GRIESER:

17 Objection. Asked and  
18 answered. You can answer,  
19 Dave.

20 THE WITNESS:

21 So again, it's sort of a  
22 vanilla kind of statement based  
23 on the probable cause affidavit  
24 that needs to be filed to  
25 uphold charges. Any criminal

1 attorney will tell you that. I  
2 don't see a copy of the video  
3 in this article for the public  
4 to view.

5 BY ATTORNEY MANSOUR:

6 Q. But a description of what's  
7 seen in the video --- I mean, wouldn't  
8 maybe a potential criminal or inmate  
9 reading this know that, hey, maybe I  
10 should try to sneak drugs in in my  
11 underwear or in a sandwich wrapper or  
12 a brown bag?

13 A. They could think that all they  
14 want. Sure. Yeah.

15 Q. So did the county take any  
16 steps to prevent the release of this  
17 information to the press?

18 ATTORNEY GRIESER:

19 Objection. Vague. You  
20 can answer if you know, Dave.

21 THE WITNESS:

22 So, again, you have to  
23 consult with the district  
24 attorney and the county  
25 detectives on why they released

1           that information. I didn't  
2           release it. They released it.  
3           So, again, I don't know that,  
4           you know, the district attorney  
5           is held to the same standard  
6           that we are, but, you know,  
7           again, nobody called up and  
8           said, here's video. This is  
9           the result of a criminal  
10          investigation by the district  
11          attorney and the county  
12          detectives. And again, I don't  
13          see that video anywhere in the  
14          public domain.

15       BY ATTORNEY MANSOUR:

16       Q.       Well, I mean, Mr. Kimbrough  
17       didn't release any video either to  
18       Attorney Zeiger, did he?

19       A.       So I don't know what he  
20       released. I only know what Attorney  
21       Zeiger said was released. I don't  
22       know. Wasn't in the room.

23       Q.       Attorney Zeiger said that every  
24       --- everything that he learned was  
25       from the mouth of Attorney Kimber?



1 A. Well, you know, again ---.

2 Q. Or I'm sorry.

3 A. Yeah, Lieutenant Kimberly  
4 called him. This is not a situation  
5 where somebody called somebody. This  
6 was a criminal investigation. The  
7 district attorney, the judges, they're  
8 the ones that control that information  
9 once they have it, not me. This  
10 wasn't a release of information from  
11 the Department of Corrections. I can  
12 only --- I can only address Department  
13 of Corrections violations. I can't  
14 address, policy, procedure for the  
15 district attorney or the courts.

16 Q. But you would agree with me  
17 that sensitive information is  
18 sensitive information.

19 Right?

20 A. I agree that that's sensitive  
21 information.

22 Q. And then it says here in the  
23 next paragraph, within five minutes of  
24 entering the main jail, Rhoades  
25 started trading the drugs for food,

1 headphones, artificial sweetener, and  
2 coffee. He also offered heroin to  
3 other inmates, including 22-year-old  
4 Joshua Patterson of Philadelphia.  
5 That's sensitive information, too.

6 Right? What kind of  
7 commodities can be traded for drugs in  
8 the jail?

9 A. So again, my --- my response is  
10 the same as the one on the first one.  
11 Nobody from the jail picked up a phone  
12 and called a private citizen or an  
13 attorney with this information. This  
14 --- this, I'm assuming, came out  
15 through the investigation, the court  
16 proceedings, the trial, the plea deal.  
17 You're going to have to talk to the  
18 district attorney on that.

19 Q. No, and I understand that, Mr.  
20 Kratz. And I'm not --- I'm not saying  
21 that you necessarily have control over  
22 those individuals. But what I'm  
23 asking you is, as director of  
24 corrections, what do you do to make  
25 sure that this kind of sensitive

1 information doesn't become public?

2 ATTORNEY GRIESER:

3 Objection. Asked and  
4 answered.

5 THE WITNESS:

6 So what I do is make  
7 sure the people who are under  
8 the Department of Corrections'  
9 purview don't release that  
10 information. That's all I can  
11 do. I have no say over the  
12 District Attorney or the judges  
13 as much as I'd like to. I  
14 don't.

15 And again, elements of a  
16 criminal case of --- not a  
17 criminal lawyer, not a  
18 prosecutor, but I'm assuming  
19 that they needed to release  
20 these facts. They become  
21 public, and it's part of the  
22 record. You know, if they  
23 wanted to redact them, maybe  
24 they could, maybe they  
25 couldn't. I don't know.

1 That's criminal procedure.

2 That's way out of my league.

3 The only thing I can  
4 control is employees of the  
5 Department of Corrections. I  
6 can't control chiefs of police.  
7 I can't control the district  
8 attorney. I can't control the  
9 county detectives. I can only  
10 control and abide by the rules  
11 that we have in place at the  
12 Department of Corrections in  
13 the County of Bucks.

14 Incidentally, the  
15 District Attorney is the row  
16 office. It's very different  
17 stuff. That's where that  
18 information came from. You'd  
19 have to query the district  
20 attorney as to what they're  
21 allowed to release. They don't  
22 give me a call before they file  
23 charges and say that this is  
24 going in the PC affidavit.

25 BY ATTORNEY MANSOUR:

1 Q. Mr. Rhoades's attorney here ---  
2 I'm highlighting this area. Just  
3 confirm you can see it. So Mr.  
4 Rhoades' attorney, Keith Williams,  
5 told the court that Joshua Patterson  
6 --- Patterson would be alive today if  
7 the police officers and county  
8 corrections officers performed their  
9 jobs correctly and found the large  
10 amount of illegal drugs that Rhoades  
11 concealed in his pants when he was  
12 arrested.

13 I read that correctly?

14 A. Seems to, yeah.

15 Q. Okay.

16 Isn't that the gist of what  
17 Attorney Kimbrough told Attorney  
18 Zeiger, that had county --- had  
19 corrections officers perform their  
20 jobs correctly, Patterson's death  
21 could have been avoided?

22 ATTORNEY GRIESER:

23 Objection. This has  
24 been asked and answered. And  
25 the witness has said several

1 times he can only control his  
2 own people, the employees  
3 of ---.

4 ATTORNEY MANSOUR:

5 I understand, but I'm  
6 asking him if what his ---.

7 ATTORNEY GRIESER:

8 Excuse me. If you  
9 wouldn't mind, Mr. Manser,  
10 allow me to finish speaking.  
11 He said several times that the  
12 only people he can control are  
13 those employees in the DOC who  
14 are subject to the DOC  
15 policies. And we keep --- you  
16 can throw a million  
17 hypotheticals at him, but this  
18 is asked and answered. So can  
19 we move on?

20 BY ATTORNEY MANSOUR:

21 Q. This is not ---. I'm asking  
22 him, is if the information here  
23 allegedly shared by Mr. Williams, that  
24 in his opinion, if county corrections  
25 officers performed their jobs

1       correctly, they would have found the  
2       drugs and Patterson's death would have  
3       been prevented. My question to you  
4       is, isn't that the gist of what Mr.  
5       Kimbrough told Attorney Zeiger? Same  
6       opinion, that if county --- if  
7       corrections officers had done their  
8       jobs correctly, this could have been  
9       avoided?

10      A.       So again, we're talking about  
11      the defense attorney's opinion on this  
12      case, which I would think he's  
13      zealously representing the person  
14      who's being charged. He can say  
15      whatever he want. I have no ability  
16      to muzzle Keith Williams or keep him  
17      advised of what's confidential, what's  
18      not.

19               So again, Keith Williams ---  
20      nobody picked up the phone. You know,  
21      this is a case of connect --- you're  
22      trying to connect the dots, it seems  
23      to me, to similarities between a  
24      county employee and what the judges  
25      are and what the bench is doing and

1        what a document from a --- that was  
2        transferred on to somebody that  
3        shouldn't have been. So it's really  
4        my same answer.

5                I mean, the question for me is  
6        what happened? You know, all of a  
7        sudden I have --- I have an employee  
8        who has been great, you know, we're  
9        going along. He's maintained  
10       confidentiality for 15, 16 years. He  
11       knew better. He knew what he did when  
12       he picked up the phone and called an  
13       attorney who is representing ---  
14       essentially suing us.

15               So I can't speak to what Keith  
16       Williams did in his opening or  
17       closing.

18       Q.        No, I understand that and I  
19       don't want --- I don't mean to cut you  
20       off, but I want to, you know, clarify  
21       the issue I'm trying to get  
22       clarification on.

23               That is this information about  
24       what happened the day that Rhoades  
25       snuck drugs into the jail, that was



1 already essentially public or at least  
2 known by a number of people outside of  
3 the jail.

4 Right?

5 A. So again, you know, if  
6 Lieutenant Kimbrough was subpoenaed by  
7 the district attorney's office or  
8 wanted to advocate for the defense for  
9 Keith Williams, sure, there's a  
10 mechanism for that as well. You know,  
11 when you're compelled to give  
12 testimony, that's very different. He  
13 was not compelled to give testimony in  
14 there.

15 I could --- I could not --- I  
16 could not ---. The county work rules  
17 would not apply if Lieutenant  
18 Kimbrough was subpoenaed by the  
19 district attorney and he gave truthful  
20 testimony, what he felt was truthful  
21 testimony. However, absent of that,  
22 he's a lieutenant in a very sensitive  
23 area. And again, I just can't for the  
24 life of me figure out why all of a  
25 sudden, you know, this gross violation

1 of all these policies happened. He  
2 definitely had to know that he can't  
3 put that information out there because  
4 he hadn't for 15 years. I'm sure the  
5 opportunities have presented itself,  
6 but I can't ---. Again, if we're  
7 going to go down this article and talk  
8 about defense attorneys, district  
9 attorneys, the courts, judges,  
10 probable cause affidavits, I can't. I  
11 can't control that information. It's  
12 not --- it's not for me to control.

13 Q. That --- you made that quite  
14 clear. And I --- I don't dispute  
15 that. I mean, I understand as  
16 director of corrections, you can't  
17 control what judges and cops and  
18 everybody else does, but what ---.

19 A. And not to be disrespectful, I  
20 feel like we're going over the same  
21 ---.

22 Q. No, but what I'm trying to find  
23 out is since other people already knew  
24 about a lot of this information, was  
25 it really confidential?

1       A.       Is it --- because somebody  
2       disclosed information, is it ---?  
3       It's still confidential in the world  
4       of Department of Corrections. In our  
5       world, we don't comment on that.  
6       Public information communications can  
7       do what they need to do. But, you  
8       know, as a lieutenant, as the director  
9       of corrections, I got to tell you, if  
10      I called up tomorrow and commented on  
11      something like that to a reporter, I  
12      imagine I'd be packing up my desk.

13      Q.       But doesn't confidential mean  
14      held in confidence.

15              Right? Like it's something  
16      that other people don't or shouldn't  
17      know about. So once other people know  
18      about it's no longer confidential?

19              Right?

20      A.       Or creates a disruption in our  
21      facility or our safe operations, yeah.  
22      Again, I ---.

23      Q.       That's different from  
24      confidential, isn't it, sir?

25      A.       I can't control, you know, your

1       --- the hypotheticals. I can't  
2       control. If somebody hacked into the  
3       county system and got information they  
4       shouldn't have and posted it on the  
5       dark web, we can say that  
6       information's out there. It didn't  
7       come from us, it didn't come from me,  
8       it didn't come from one of the  
9       employees.

10       Q.       Fair enough. Fair enough. And  
11       I agree with that assessment.

12       A.       And again, trust me, there are  
13       times I --- you know, listen, I would  
14       love to comment on some articles with  
15       inaccuracies. I would love to call up  
16       a reporter and say that's not  
17       accurate. I don't do that because  
18       that's not what I'm permitted to do.

19               It's a decision for the  
20       communications department and the law  
21       department to decide on how they want  
22       to address these things.

23       Q.       What I'm trying ---.

24       A.       And everything you showed me  
25       today, to my knowledge, and critical

1 thinking here came out of probable  
2 cause affidavits, trial transcripts,  
3 opening and closing statements. It's  
4 written by a reporter. It's not a  
5 scholarly article who basically picked  
6 the McNuggets out that they want to  
7 put in an article to make people read  
8 it, you know.

9 But it didn't come from us. It  
10 did not come from the Department of  
11 Corrections.

12 Q. What I'm trying to find out,  
13 though, sir, is why information is  
14 considered confidential if other  
15 people outside of the jail already  
16 know about it. So ---.

17 ATTORNEY GRIESER:

18 Objection. Asked and  
19 answered.

20 BY ATTORNEY MANSOUR:

21 Q. So I'll give you an example.  
22 Right.

23 Your conversations with your  
24 --- with the county attorneys prior  
25 today are considered confidential.

1           Okay.

2           That is, nobody other than you  
3           and the attorneys know about it. But  
4           if you or your attorneys tell other  
5           people what you talked about, it's no  
6           longer confidential and you can no  
7           longer claim it's protected by  
8           confidentiality when the public  
9           already knows about it.

10           So, for example, the complaint  
11           in this case that we filed is not  
12           confidential, even though many of the  
13           facts in there are based on things my  
14           client told me. They are in the  
15           complaint. They are part of the  
16           public record. And I could no longer  
17           say, well, I can't talk about what  
18           happened because it's confidential.  
19           It's not confidential. It's --- it's  
20           already out there. Now, certain  
21           private communications that have not  
22           been disclosed between me and my  
23           client ---

24                                   ATTORNEY GRIESER:

25                                   Objection. This is

1 argumentative.

2 BY ATTORNEY MANSOUR:

3 Q. --- or that not have been ---.

4 ATTORNEY GRIESER:

5 It's not a closing  
6 statement.

7 BY ATTORNEY MANSOUR:

8 Q. It's not. I'm trying to set up  
9 some context for my question because  
10 he seems to be having a hard time with  
11 all due respect, sir, understanding  
12 what I'm ---.

13 A. I understood.

14 Q. What I'm trying to ask is ---.

15 ATTORNEY GRIESER:

16 Just can I interject  
17 real quick, please? Can we ---  
18 are we talking about  
19 confidential, security  
20 sensitive, one or the other or  
21 both? Because we've talked  
22 about --- it seems like we're  
23 wrapping confidential up with  
24 like attorney/client  
25 confidentiality,

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1            confidentiality as it pertains  
2            to SOPs at the jails, you know.  
3            Can we be more specific,  
4            because I think the form right  
5            now is rather vague?

6                            ATTORNEY MANSOUR:

7                            Sure.

8            BY ATTORNEY MANSOUR:

9            Q.            So SOPS at the jail, those are  
10           confidential.

11                          Correct?

12           A.            Parts of them are.    Parts of  
13           them are not.

14           Q.            Okay.

15                          And the parts that are are  
16           considered confidential because the  
17           county does not want and thinks it's  
18           --- it's not necessary for anybody  
19           outside of the county to have access  
20           to them.

21                          Right?

22           A.            They --- they would create a  
23           security or a safety issue.    So things  
24           that are --- for instance, I'll give  
25           you an SOP, our mail procedure.    You



1 can have that if you want it. Right.  
2 That's not going to hurt anybody.  
3 It's not going to create a disruption.

4 Our SRT training tactics, use  
5 of force, very different, right, than  
6 that. So there are parts of the SOP  
7 that we release. But I got to say, I  
8 don't release them. Communications  
9 releases them or the law department  
10 does, if it's a Right to Know.

11 I don't --- if a reporter calls  
12 me up and says, I want your mail  
13 policy, I'm not giving them my mail  
14 policy. I'm going to refer them to  
15 public information or our office of  
16 open records person. Right.

17 Q. Fine. And as I think you  
18 indicated in your response, there  
19 seems to be a link between  
20 confidential and sensitive.

21 Right? Like information ---

22 A. Yeah.

23 Q. --- is kept confidential for  
24 security purposes.

25 Right?

1       A.       Sure. You want transparency.  
2       I mean, with the public, you want  
3       transparency. If it's not going to  
4       hurt you to release it, it's a public  
5       document, the public has, you know, a  
6       right to know. Right. There's ---  
7       there are standards and checks and  
8       balances on what gets released in a  
9       process all the way up to the  
10      Commonwealth Court, which, again,  
11      we've gone there.

12             Jaclyn Grieser has taken us to  
13      the Commonwealth Court on certain  
14      cases that were related to use of  
15      force that people wanted, and the  
16      courts have upheld that that's  
17      security sensitive. I think, you  
18      know, your scenario with  
19      attorney/client, you know, I'll just  
20      comment on that real quickly.

21             Again, you know, you've had  
22      conversations with Lieutenant  
23      Kimbrough. I've had conversations  
24      with my solicitor. Their  
25      attorney/client privilege. I think we

1 can all agree that that should not be  
2 disclosed. Right. You're not going  
3 to go saying to a reporter what  
4 Lieutenant Kimbrough told you unless  
5 he gives you permission.

6 If somebody hacked your ---  
7 your records or hacked my records and  
8 put it out there, the logic that I'm  
9 following today is because it's  
10 already out there it wouldn't apply to  
11 be being privileged information. So I  
12 would assume that if they hacked your  
13 information and the reporter got a  
14 hold of it and put it out there, or a  
15 judge put it out there, you might make  
16 a statement about that. Right. I  
17 don't --- that that's kind of like  
18 where I'm going. Maybe I'm not  
19 understanding ---

20 Q. Well, that's ---.

21 A. --- what you're asking.

22 Q. That's --- and you might not  
23 be, right, because hacking, obtaining  
24 the information illegally ---

25 A. Right.

1 Q. --- is different from the  
2 information being lawfully  
3 disseminated to the public. So I  
4 don't think you're saying that the  
5 police officers who shared the  
6 surveillance video in their affidavit  
7 obtained that information legally.

8 Right?

9 A. So I don't know that they  
10 shared the video. I don't know. I  
11 know that maybe they viewed the video  
12 and put those statements in there for  
13 their case. I don't know. I really  
14 don't know.

15 Q. Regardless of whether they  
16 shared the video or just described  
17 what they saw in the video, they  
18 didn't do that illegally.

19 Right?

20 A. Right. But I could tell you  
21 that if the chief county detective  
22 released that to the newspaper, there  
23 might be different repercussions than  
24 using that information to prosecute a  
25 criminal. You know, the argument that

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1       it's already out there, that makes it  
2       not confidential to me is --- again,  
3       it's out there, and it's out there for  
4       a legal reason, not for a reason that  
5       I picked up the phone and said, you  
6       know, hey, reporter, hypothetically,  
7       we're down 45 guards today. It's  
8       going to be a mess in there. It's an  
9       unsafe jail.

10      Q.       Okay.

11               I want to show you --- again,  
12       this is the complaint that we filed in  
13       this matter, and I want to direct your  
14       attention to paragraphs 23 and 20 ---  
15       23, 24 and 25. So here, if you could  
16       just read them to yourself and let me  
17       know when you're done.

18      A.       Okay.

19               I'm ready.

20      Q.       Okay.

21               According to this complaint,  
22       Attorney Zeiger already knew  
23       everything that Attorney Kim --- or  
24       that Lieutenant Kimbrough shared with  
25       him, except for the fact that

1 Lieutenant Kimbrough had made prior  
2 complaints up the chain of command  
3 about what he believed to be  
4 understaffing in the intake unit.

5 A. Okay.

6 Q. Okay.

7 Does that change your opinion  
8 about whether Mr. Kimbrough shared  
9 confidential information with Attorney  
10 Zeiger when he said, for example, that  
11 Officer Ulmer was moved from the  
12 intake unit to another unit?

13 ATTORNEY GRIESER:

14 Objection as to form.

15 This --- Dave does not know the  
16 background as to whether this  
17 particular piece, this  
18 information was filed under  
19 protective order or that it was  
20 sealed. He may. He may know  
21 that, but let's be clear that  
22 this isn't just out there for  
23 --- what Attorney Zeiger knew  
24 isn't out there for the public  
25 as far as what he said --- what

1 Kimbrough said to Attorney  
2 Zeiger. So go ahead, answer,  
3 Dave.

4 THE WITNESS:

5 So again, I would say  
6 Jaclyn's absolutely right. I  
7 don't know what's sealed. I  
8 don't know what information is  
9 given. You know, number 23  
10 states that this information is  
11 already known. I guess my  
12 question would be, well, why  
13 didn't he depose Lieutenant  
14 Kimbrough at the time? You  
15 know, I mean, I can't do --- do  
16 his case for him. I didn't ---  
17 I don't know who's deposed. I  
18 don't know how many people ---.

19 BY ATTORNEY MANSOUR:

20 Q. Maybe I have to provide a  
21 little bit more content. So the  
22 information that was known by Attorney  
23 Zeiger is the information in paragraph  
24 22.

25 Right? So in terms of what

1       happened that day, how Rhoades snuck  
2       drugs into the jail, which officers  
3       were on the post and which ones were  
4       not, all of that information,  
5       according to Attorney Zeiger, was  
6       already known by him.

7               Okay.

8               The only thing he did not know  
9       was that my client had complained  
10       about understaffing in the years  
11       prior. So my question to you is,  
12       accepting that as true, that Attorney  
13       Zeiger already knew all of this  
14       information about how Rhoades snuck  
15       drugs into the jail, does that change  
16       your opinion about whether Attorney  
17       Kimbrough breached confidentiality by  
18       repeating that information to him?

19                       ATTORNEY GRIESER:

20                      Objection. It calls for  
21                      a legal conclusion. You can go  
22                      ahead and answer, Dave.

23                       THE WITNESS:

24                      Yeah, So I would say it  
25                      does not change my opinion. I



1           would say that if Attorney  
2           Zeiger wanted to speak to Mr.  
3           Kimbrough, I --- not a lawyer,  
4           don't know the process. I  
5           would imagine there's a process  
6           for him to request that. It  
7           probably would --- would have  
8           been done prior to that.

9                        Again, Lieutenant  
10          Kimbrough picked up the phone  
11          and shared his opinions, not  
12          necessarily facts about  
13          staffing with the attorney.

14                      And I got to tell you  
15          again, everybody feels like  
16          their area is understaffed.  
17          Everybody feels like, you know,  
18          we want more staff. The  
19          reception is adequately  
20          staffed. Like I said, we move  
21          people around. Now, maybe  
22          Lieutenant Kimbrough felt there  
23          could have been more. Maybe  
24          Lieutenant Kimbrough could have  
25          been over there and staffed it

1           himself during that crisis if  
2           ---.

3                       I know for a fact, you  
4           know, if there's a code and you  
5           look up from your desk and you  
6           see Officer Ulmer leave to  
7           respond to that code, and one  
8           of your records officers is  
9           over there, get up and walk  
10          across the hall into that unit  
11          and staff it yourself. See  
12          what's going on. You have a  
13          radio. You know what's going  
14          on on that.

15                     He chose to reach out to  
16          this attorney. And again, I'm  
17          sure there's a legal process  
18          that if the attorney wants to  
19          speak to him, that they go  
20          through that. He picked up the  
21          phone and made the call. The  
22          attorney didn't call him.  
23          That's really where --- that's  
24          really where it comes down for  
25          me. I have no issues with any

1 kind of court order, any kind  
2 of things that you have to  
3 disclose. You know, my  
4 attorneys tell us to disclose a  
5 document, we disclose a  
6 document. They fight the  
7 fight, not me. So it doesn't  
8 change my opinion on that.

9 BY ATTORNEY MANSOUR:

10 Q. And that, to you, is the  
11 critical factor here.

12 Right? That my client  
13 voluntary --- voluntarily reached out  
14 to Attorney Zeiger, not the other way  
15 around?

16 A. That's one of the critical  
17 factors.

18 ATTORNEY GRIESER:

19 Objection.

20 Mischaracterizing his prior  
21 testimony. Go ahead. You can  
22 answer, Dave.

23 THE WITNESS:

24 Yeah, I mean, that's one  
25 of the critical factors.

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1           There's a lot of them here. I  
2           mean, here again, I have a guy  
3           who I've put a lot of stock in,  
4           who I've supported, who I've  
5           personally promoted, put him in  
6           in a position of  
7           responsibility. And up until  
8           this incident, you know, and  
9           the incident with the  
10          harassment complaint, which I'm  
11          sure you're familiar with, he's  
12          been great. He's been a great  
13          employee.

14                 So to me, something  
15          happened. This harassment  
16          complaint just coincides ---  
17          coincides with the Loudermill  
18          discipline. And then, like I  
19          said, within 24 hours, we're  
20          making phone calls to people  
21          who are --- are litigating  
22          against us that we've never  
23          done in 15 years.

24                 And he's been exposed to  
25          a lot of confidential

1 information during his tenure  
2 with us. He was a hearing  
3 officer for a while. I'm sure  
4 you know that. He had access  
5 to employee files. He had  
6 access to everybody's  
7 disciplines. He was great at  
8 what he does. And you know,  
9 yeah, there's a little bump in  
10 the road with an investigation  
11 for some bullying and  
12 harassment and, you know, we're  
13 going to get over that. Right.

14 This is a guy that I had  
15 higher aspirations for. This  
16 is a guy that's part of my  
17 secession plan. And then this  
18 happened. And I got to tell  
19 you, it was big. It hurt on a  
20 professional and personal  
21 level. It hurt professionally  
22 amongst the staff, the  
23 administrative staff, because,  
24 you know, we rely on a lot of  
25 trust. And even some of the

1 lower level staff were shaken  
2 by this, so ---.

3 BY ATTORNEY MANSOUR:

4 Q. How did they know about this?

5 A. Hey, listen, somebody was  
6 talking, so wasn't me. You know,  
7 there's a rumor mill, there's still  
8 rumors. There's rumors about this  
9 case. You know, people talk. So I  
10 --- I don't know. I know it's not me  
11 talking.

12 There are very few other people  
13 that know anything about this in any  
14 level of detail, the law department,  
15 myself, human resources, you and your  
16 client. That's pretty much, you know,  
17 who knows what's going.

18 But yeah, it does not change my  
19 opinion. It's, again, something that  
20 should have been brought forward. If  
21 there was an issue that he wanted to  
22 relay some information, I don't know  
23 the process for that. But, you know,  
24 he wasn't called. Attorney Zeiger  
25 probably maybe missed something. I

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1 don't know. It's not for me to say.

2 But we do not pick up the phone  
3 and we do not give information that's  
4 not --- well, to other people, other  
5 than law enforcement and people that,  
6 you know, need to know those things.  
7 It's kind of where I stand on most of  
8 this.

9 Q. And that would be especially  
10 true for attorneys who are suing the  
11 county.

12 Right?

13 ATTORNEY GRIESER:

14 Objection.

15 THE WITNESS:

16 Well, I'm not going to  
17 differentiate between  
18 disclosing information, but you  
19 know, listen, I'm not going to  
20 call my father, give him  
21 information. I'm not going to  
22 call the chief of police's  
23 husband or wife or cousin. And  
24 I'm certainly not going to call  
25 any attorney. We don't talk.

1           That's not what we do. We run  
2           a very large institution with  
3           rules and regulations and a lot  
4           of information crosses some  
5           people's desks. I mean, we  
6           have layers of information.

7                       Lieutenant Kimbrough's  
8           office ---. And you know, I'm  
9           sure, you know, for the record,  
10          I was the sergeant and  
11          lieutenant in there for a  
12          little while myself as I came  
13          up the ranks. There's a lot of  
14          information that comes through  
15          there. A lot. There's  
16          criminal history information,  
17          there's rap sheets,  
18          fingerprints, innuendo, court  
19          paperwork.

20                       Some of that's public.  
21          I mean, a lot of that stuff you  
22          can look up a court paper.  
23          You can get a transcript from a  
24          trial if you want to pay. But  
25          again, that's not for me to do.



1 I'm not here to give you the  
2 transcript. I'm not here to  
3 give information out, no matter  
4 who it is, unless it's approved  
5 and we're told that it's okay.

6 BY ATTORNEY MANSOUR:

7 Q. In terms of you had referenced  
8 ---.

9 Okay.

10 So you learned about my  
11 client's phone call with Attorney  
12 Zeiger from, I think you said, members  
13 of the law department and human  
14 resources.

15 A. I believe it's the law  
16 department, when the information was  
17 given to them that there was a motion  
18 to open the case back up again.

19 Q. Okay.

20 A. I do need to let everybody  
21 know, it's almost 12:30 and I have to  
22 be up for prison board at 1:00 today.

23 Q. Okay.

24 A. So if we can't wrap up, I can  
25 circle back around. I don't want to

1 cut it ---.

2 Q. No, we --- we could. I just  
3 have a few more questions, so ---.

4 A. Okay.

5 Q. You did not disclose to anybody  
6 outside of the law department or human  
7 resources the substance of my client's  
8 conversation with Attorney Zeiger.

9 Correct?

10 A. So, again, I don't know the  
11 entire conversation. A couple days  
12 went by to my recollection as it was  
13 being looked into and the law  
14 department was doing what they were  
15 doing. Human resources was informed.  
16 I believe, that there were some  
17 interviews and some things going on up  
18 there. I probably did not discuss it  
19 with my administrative team for at  
20 least three or four days, maybe a  
21 little bit longer, because, again, I  
22 don't want to jump the gun. Right.

23 If it was a big nothing, then,  
24 you know, I don't want to besmirch the  
25 guy's reputation. When I was told

1       that it was not looking favorable and  
2       some procedures were violated and we  
3       were possibly looking at investigating  
4       him and locking him out, I spoke to my  
5       deputies and let them know in very  
6       general terms that there was contact  
7       with an attorney who was litigating  
8       with us and information was relayed,  
9       but I didn't really have that much  
10      detail.

11               And everybody was just shocked.  
12      We were all just like, what? You  
13      know, and then that's where it came  
14      --- you know, people ---. As it  
15      unfolded, people were saying, well,  
16      there's a level of trust here that he  
17      was a very trusted member of the team,  
18      you know.

19      Q.       Okay.

20      A.       When we talk about staffing, we  
21      include him in these discussions  
22      because, you know, again, I don't know  
23      if there's 70 people coming in today  
24      on parole violations. When we decide  
25      where we're going to deploy our staff,

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1 we talk about how we need to do that.

2 Q. Who specifically did you talk  
3 to and did you --- to whom  
4 specifically did you disclose the fact  
5 that my client was investigated for  
6 disclosing certain information to  
7 Attorney Zeiger?

8 A. So that would be my deputy ---.

9 ATTORNEY GRIESER:

10 Objection to form. And  
11 I think that mischaracterizes  
12 his testimony. I don't believe  
13 ---

14 THE WITNESS:

15 I'm sorry.

16 ATTORNEY GRIESER:

17 --- he said invest ---  
18 he told people he was  
19 investigating. You can go  
20 ahead and answer it, Dave.

21 BY ATTORNEY MANSOUR:

22 Q. I thought you used the word  
23 investigate, didn't you?

24 A. I could barely hear you,  
25 Jacqueline. I'm sorry.

1 Q. Did you use the word  
2 investigate? You said that he was  
3 being --- my client was being  
4 investigated.

5 Right? I believe you used that  
6 term.

7 ATTORNEY GRIESER:

8 Yeah, he --- what was  
9 your question? Can you please  
10 repeat that?

11 BY ATTORNEY MANSOUR:

12 Q. So my question was, to whom  
13 specifically did you disclose that my  
14 client was being investigated for his  
15 conversation with Attorney Zeiger?

16 ATTORNEY GRIESER:

17 So investigated versus  
18 he's no longer part of the  
19 team?

20 BY ATTORNEY MANSOUR:

21 Q. Correct.

22 ATTORNEY GRIESER:

23 Okay.

24 BY ATTORNEY MANSOUR:

25 Q. Investigate.

1       A.       Got you. So that would be my  
2       deputy warden --- I'm sorry, my deputy  
3       director, Jim Coyne, and Carl  
4       Matellus, the warden of the facility,  
5       who has oversight of the facility  
6       where the records department's  
7       located. And again, I advise that we  
8       keep that confidential, because it was  
9       just being looked into at that part  
10      --- point.

11      Q.       Now, this conversation between  
12      my client and Attorney Zeiger occurred  
13      on May 30th, 2024. On June 12th,  
14      2024, my client was interviewed by  
15      Lauren Smith and Attorney Dan Greaser.  
16      And then on --- are you aware of that  
17      interview between Attorney Greaser,  
18      Dan Greaser and my client on June  
19      12th?

20      A.       I'm aware there was an  
21      interview, yes.

22      Q.       And then my client was  
23      subsequently suspended or placed on  
24      leave on or about June 21st, 2024.

25              Correct?

1 A. Correct.

2 Q. And you were the person who  
3 communicated that leave decision to  
4 him.

5 A. Correct.

6 Q. Up until June 20th --- and I  
7 know --- I think during that time he  
8 already had some pre-approved PTO  
9 time.

10 Correct? Prior to him being  
11 informed of his leave?

12 A. Yeah, I wouldn't know until I  
13 looked at the --- I think --- I think  
14 I do recall him saying he had some  
15 approved vacation days.

16 Q. Okay.

17 But between May 30th and June  
18 21st, was there any disruption in the  
19 jail as a result of my client's  
20 conversation with Attorney Zeiger?

21 A. And June 30th was the date that  
22 ---.

23 Q. May 30th.

24 A. I'm sorry. May --- the two ---  
25 give me the two dates again and tell

1 me what ---.

2 A. May 30th was the date my client  
3 spoke to Attorney Zeiger.

4 A. Okay.

5 Q. 21st was the day he was  
6 suspended. So between those two  
7 dates, tell me about what disruption  
8 there was, if any, in the jail  
9 resulting from his conversation with  
10 Attorney Zeiger

11 A. So again, not being in the ---  
12 in the pits, you know, the reception  
13 area and the records area, you know, I  
14 don't know who knew what. You know,  
15 rumors travel. Your client may have  
16 spoken to a few people. You know, I  
17 don't know. Nobody from my  
18 administration did.

19 Again, I'm not jumping the gun  
20 on, you know, not going to pull this  
21 guy out the minute we receive the  
22 information. It needs to be looked  
23 into for accuracy. And I believe  
24 human resources and the law department  
25 did their due diligence.



1           Once they determined that there  
2       was some issues, you know, I was  
3       brought into the discussion. When  
4       they investigate people in Bucks  
5       County, typically during that  
6       investigation, they're relieved of  
7       their duties, which I think was a  
8       prudent decision here at this point,  
9       because, again, I have to say, like, I  
10      don't understand ---. There was this  
11      discipline for this bullying, and  
12      then, boom, very uncharacteristic  
13      decision by Lieutenant Kimbrough.

14           So I had some concerns that  
15      possibly there could be more  
16      interactions like that. And everybody  
17      felt it was a safer decision to have  
18      him out of the building while it was  
19      looked into. And that's kind of what  
20      happened.

21      Q.       Okay.

22           And fair enough. But what I'm  
23      asking is, between those two dates of  
24      May 30th and June 21st, approximately  
25      three weeks, was there any disruption

1 in the operations of the jail as a  
2 result of my client's conversation  
3 with Attorney Zeiger?

4 A. I really can't speak to that.  
5 None that I'm aware of.

6 Q. Did my client during those  
7 three ---?

8 A. I mean, when you say  
9 disruption, I have to say that, you  
10 know, we had to --- like, I had to  
11 spend a lot of more time observing  
12 what was going on in there. Other  
13 administrators had to just make sure  
14 --- the ones that knew. Again, we  
15 didn't put this out on main street for  
16 everybody to know, but, you know, we  
17 had to start looking at the work  
18 operations, making sure things were  
19 going okay, you know. It was very  
20 ---.

21 Q. In those three weeks between  
22 May 30th and June 21st, did my client  
23 continue to perform his job duties?

24 A. Yes.

25 Q. He continued to show up for

1 work?

2 A. As far as I'm aware, yes,  
3 without looking at the attendance.

4 Q. Did he get into any sort of  
5 altercations or fights with --- with  
6 other employees regarding his  
7 conversation with Attorney Zeiger?

8 A. None that were reported to me  
9 at that point, but I don't think the  
10 word was out amongst the ranks at that  
11 point.

12 Q. Okay.

13 Was there anybody in those  
14 three weeks that came to you and said  
15 that they can't work with my client  
16 because of his conversation with  
17 Attorney Zeiger?

18 A. No.

19 Q. Is there anybody, any employee  
20 of the jail that came to you in those  
21 three weeks and told you that they  
22 can't work with my client because they  
23 don't trust him following his  
24 conversation with Attorney Zeiger?

25 A. There was some discussion

1        amongst my deputy and the warden that,  
2        you know, if this is actually going to  
3        be founded, that there were some trust  
4        issues that we were going to have to  
5        deal with.

6        Q.        In those three weeks between  
7        May 30th and June 21st, were there any  
8        security lapses in the jail as a  
9        result of my client's conversation  
10       with Attorney Zeiger?

11                    ATTORNEY GRIESER:

12                    Objection.    Vague.

13                    BY ATTORNEY MANSOUR:

14        Q.        So any --- I'll rephrase the  
15        question.    In those three weeks,  
16        between May 30th and June 21st, were  
17        there any breaches of security as a  
18        result of my client's conversation  
19        with Attorney Zeiger?

20        A.        So nothing jumps out.    I'd have  
21        to --- I mean, I'd have to go through  
22        the files just to see, but I don't  
23        believe there was any --- any issues.

24        Q.        Now, when my client was placed  
25        on leave on June 21st, you assigned

1       somebody to take over his position in  
2       reception?

3       A.       No.    So once --- once he was  
4       officially put out of work, I went  
5       over into that office there.   Really,  
6       it's a very limited --- it's pretty  
7       much me because I did that job for  
8       many years.   It's a very specialized  
9       job.   So there really is nobody to  
10      just put in there.   Right.   It's a ---  
11      it's a very ---.

12               We still have not filled it.  
13      Right.   We have a bunch of people that  
14      are --- there's three of us that are  
15      basically taking over those duties at  
16      this point while we get to the  
17      position of having to promote somebody  
18      into that --- that position.

19               But, yeah, so it's been, you  
20      know, if you want to talk disruption,  
21      yeah, it's --- it's taken up my time.  
22      It's taken up the word's time.   We  
23      have a deputy warden who is somewhat  
24      knowledgeable in records procedures.  
25      I have tasked him over there for a

1 couple hours a day just to guide the  
2 staff. But we're still in a position  
3 where we have not filled that. That's  
4 typically a position where you grow  
5 into through experience.

6 Q. That disruption that you just  
7 mentioned --- you talk about  
8 disruption. So the fact that that  
9 position remains unfilled and has  
10 resulted in you and a number of other  
11 individuals having to jump in and kind  
12 of take over those duties, that was  
13 because the county suspended him and  
14 then fired him, him being my client.

15 Right?

16 A. Oh, yeah, sure. I mean, if he  
17 were still at his desk, I probably  
18 wouldn't have to do ---.

19 Q It wouldn't be that disruptive?

20 A. That goes without saying.

21 Yeah.

22 Q. Okay.

23 So had he not been suspended  
24 and then fired, there wouldn't have  
25 been that kind of disruption that

1       you're referring to.

2               Right?

3       A.       Yes.   Correct.   I can't say  
4       that he wouldn't have done more of  
5       reaching out to people or creating  
6       strife.   Because again, I have to  
7       question why that was done in the  
8       first place.   Was it a result of the  
9       discipline that was coming his way?  
10      He was --- you know, was it a way to  
11      basically sort of retaliate to that?  
12      I don't know.

13              Again, it's very  
14      uncharacteristic of Lieutenant  
15      Kimbrough to do something like that.  
16      He's been a great employee, and again,  
17      we're going to get him over this hump  
18      with this --- you know, with this  
19      bullying and harassment discipline.  
20      It wasn't a --- it wasn't a game  
21      ending thing.   We were going to, you  
22      know, work on that, communication  
23      skills and some of the things that  
24      people were complaining about, but  
25      ---.

1 Q. And I don't mean to rush along,  
2 but I do know you're --- you're on a  
3 time constraint.

4 A. Yeah, actually, I think ---.

5 Q. I want to wrap up.

6 A. --- that they pushed the  
7 meeting back to 1:00, so I got to ---  
8 I do have to start ---

9 Q. Okay.

10 A. --- down. And I will make  
11 myself available later today or  
12 tomorrow, whatever, if you ---.

13 Q. Fair enough. But besides  
14 essentially his role remaining vacant  
15 to this day, or at least without a  
16 permanent replacement, okay, and his  
17 job responsibilities --- former job  
18 responsibilities being juggled by  
19 yourself and a couple of other  
20 individuals, has there been any other  
21 disruptions to the workplace in the  
22 jail not as a result --- and I want to  
23 be clear on this, not as a result of  
24 my client being fired, but as a result  
25 of my client's conversation with



1 Attorney Zeiger?

2 A. So directly I can tell you  
3 that, you know, again, the lack of ---  
4 the lack of trust, the worry.  
5 Everybody's worried about that, you  
6 know, going out, violating  
7 confidentiality, violating that. So  
8 that --- that's your higher level.

9 You're asking me to speculate  
10 on, you know, tone. I can do that  
11 with the guards. There are certain  
12 guards that are very supportive of  
13 this because, again, they're not happy  
14 and they want him to get millions of  
15 dollars. There are a lot of people  
16 that are shaking, and were like why  
17 did this happen? What's going on?  
18 Because nobody knows the facts.

19 Everybody thinks they know the  
20 facts. They get the McNuggets out of  
21 the paper. They hear things. So, you  
22 know --- and some of it might be true.  
23 A lot of it probably isn't.

24 So there are a lot of people,  
25 you know, were quite shaken by that

1 and, you know, felt a loss, but you  
2 don't have that supervision in that  
3 office the way we had it before. So,  
4 you know, it's an issue.

5 Q. There were --- based on your  
6 knowledge, there were no news articles  
7 about my client's conversation with  
8 Attorney Zeiger until after he filed  
9 this lawsuit.

10 Right?

11 A. To my knowledge, that's  
12 correct.

13 ATTORNEY GRIESER:

14 Objection. Vague.

15 Yeah. You can answer if you  
16 know.

17 THE WITNESS:

18 Yeah, I'm not aware of  
19 anything. Maybe there was. I  
20 tend not to read the news  
21 articles unless somebody sends  
22 them to me.

23 BY ATTORNEY MANSOUR:

24 Q. Okay.

25 And then just my last line of

1       questioning. Are you familiar with  
2       the Federal Statute, Title 42, U.S.  
3       Code 1983, more commonly known as  
4       Section 1983?

5       A.       Give me the bullet. Give me  
6       the McNugget on it.

7       Q.       Okay.

8               So Section 1983 is a federal  
9       law that allows individuals to sue  
10      public government agents and  
11      government employees for violations of  
12      their constitutional rights. Are you  
13      aware of that?

14      A.       Vaguely. You know, just  
15      through ---

16      Q.       I'm sure you ----.

17      A.       --- trade journals and things  
18      like that, but ---.

19      Q.       I would expect that you've  
20      probably come across that in the  
21      prison context. So, for example,  
22      prisoners many times file 1983  
23      lawsuits against jails for violations  
24      of their Fourth Amendment rights or  
25      violations of their Eighth Amendment

1 rights. Does that --- any of that  
2 ring a bell?

3 A. It does.

4 Q. Okay.

5 Are you aware of the fact that  
6 Section 1983 also protects the rights  
7 of public employees in certain  
8 circumstances?

9 ATTORNEY GRIESER:

10 Objection. This is  
11 outside the scope of this  
12 witness' knowledge. You can go  
13 ahead and answer, David, if you  
14 know.

15 THE WITNESS:

16 Yeah, I mean, you're  
17 talking --- no, I can't --- not  
18 with any certainty or ---. You  
19 know, I have to do my research,  
20 read the statute, do all that  
21 kind of stuff, but talk to my  
22 lawyer.

23 BY ATTORNEY MANSOUR:

24 Q. Well, I mean, you run the jail.  
25 Right?

1 A. Right.

2 Q. Okay.

3 So are you aware of the fact  
4 that Section 1983 allows people ---  
5 allows public employees to sue their  
6 public employers when their First  
7 Amendment rights are violated?

8 A. So yeah, yeah. I mean, sure,  
9 there's been suits. I'm assuming  
10 that's the statute number. I don't  
11 know the statute number, but yes.

12 Q. Yes. And I'll represent you  
13 that that is, that is, you know, ---

14 A. I believe you.

15 Q. The main claims in this case  
16 are brought under Section 1983. And  
17 my client is claiming that the county  
18 violated his First Amendment rights by  
19 firing him for engaging in protected  
20 speech. That's the crux of his claim.

21 Do you understand that?

22 A. Yes.

23 Q. Okay.

24 Are you aware the fact ---  
25 prior to me telling you now, were you

1       aware of the fact that public  
2       employees have certain First Amendment  
3       rights in the workplace?

4       A.       Sure, we all do. We all enjoy  
5       that.

6       Q.       Are you aware of the fact that  
7       public employers cannot retaliate  
8       against public employees for engaging  
9       in constitutionally protected speech?

10      A.       Again, not having read the  
11      statute, but it does sound reasonable  
12      to me.

13      Q.       Did you ever receive any  
14      training on that as director of the  
15      Department of Corrections about what  
16      kind of rights are protected under  
17      1983?

18      A.       Nothing specific that pops into  
19      mind. And obviously, you know, that's  
20      more of an HR kind of thing than my  
21      purview. Right. I would expect our  
22      HR folks to be more on top of that,  
23      because again, one of the first  
24      questions you asked me is can I fire  
25      someone. And the answer is no, I

1 don't have that authority. So I would  
2 assume that if there was retaliation  
3 or constitutional violations, which  
4 again, I don't agree with a  
5 constitutional violation, I think you  
6 have the right to go speak and do  
7 things that you want to do. And I  
8 think I could walk out here today and  
9 express my opinion on a multitude of  
10 things that are corrections related.

11 What I can't do is talk about  
12 information that I glean from my work.  
13 I should not go out there --- I can  
14 talk about sex offenders as probably  
15 one of the experts in that area for  
16 incarceration. But I shouldn't be  
17 able to go out there and say here's  
18 three people that are registered sex  
19 offenders in the Department of  
20 Corrections and here's their charges  
21 and their probable cause affidavit.  
22 That --- that's stuff that, you know,  
23 from a First Amendment standpoint, I  
24 shouldn't disclose. Right.

25 It's --- it's created some

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1 issues for him. There's again, a lot  
2 of discourse, a lot of disruption and  
3 it's impacted the operations of the  
4 facility. I mean, we --- you know,  
5 when all this went on.

6 Q. And that's true, but only since  
7 he's been fired.

8 Right?

9 A. Well, no, I think when he made  
10 contact right off the bat, that made  
11 us less safe and secure.

12 Q. Okay.

13 Well, and that's your opinion.

14 Right? But in terms of the  
15 disruption to the jail, right, you're  
16 talking about --- you had mentioned  
17 before how it's a topic of  
18 conversation and rumors have spread,  
19 all of that happened only after he was  
20 fired.

21 Right? He being Mr. Kimbrough?

22 A. Well, no, I mean ---.

23 ATTORNEY GRIESER:

24 Objection. Asked and  
25 answered and it



1 mischaracterizes his prior  
2 testimony.

3 Is this a good time to  
4 stop? Because I know that  
5 Director Kratz is not co-  
6 located with the prison office  
7 ---.

8 THE WITNESS:

9 No, I have to drive 15  
10 minutes. They push --- I don't  
11 have my calendar up, but I  
12 think they did push it back at  
13 1:00 today because of the snow,  
14 so ---.

15 ATTORNEY GRIESER:

16 I mean, I --- I don't  
17 --- can we go off the record  
18 real quick?

19 ATTORNEY MANSOUR:

20 Sure.

21 ---

22 (WHEREUPON, A SHORT BREAK WAS TAKEN.)

23 ---

24 BY ATTORNEY MANSOUR:

25 Q. So I mean, the question of, to

1 ask, and this really is my final  
2 question --- or my next to final  
3 question, is what disruptions resulted  
4 in the jail as a result of my client's  
5 conversation with Attorney Zeiger?

6 Not him being fired and not this  
7 lawsuit, but just his conversation.  
8 The fact that he called Zeiger and  
9 said what he said, how did that  
10 disrupt the operations of the jail?

11 ATTORNEY GRIESER:

12 Objection. Asked and  
13 answered. You can go ahead and  
14 answer, Dave.

15 THE WITNESS:

16 Okay.

17 Thanks. Yeah. So  
18 again, you know, we didn't want  
19 to rush to the door. Myself  
20 once I disclosed a couple days  
21 after that with the warden and  
22 the deputy director, obviously,  
23 took up a lot of our time and  
24 disrupted things. Officers  
25 hadn't found out about it yet.

1 I mean, so if they would have  
2 found out about it, if we would  
3 have locked him out that day,  
4 the disruption would have  
5 happened.

6 You know, it took ---  
7 what'd you say, three weeks  
8 before he was --- two weeks  
9 before he was locked out, I  
10 mean, as a result of his  
11 behavior. And again, I would  
12 say I don't really see that as  
13 a First Amendment issue when  
14 you're talking about, you know,  
15 the work stuff.

16 So, you know, it  
17 continues to be a disruption as  
18 a result of that. You know,  
19 things take time. Like if  
20 people didn't know about it,  
21 there would be no disruption.  
22 Right now there's a lot of  
23 strife, and I'm sure, you know,  
24 a lot of discussion amongst the  
25 staff who are reluctant to get

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1           involved or be down there now.  
2           And quite frankly, there's no  
3           leader in that area. That's a  
4           big loss. Huge. Huge.

5           BY ATTORNEY MANSOUR:

6           Q.       And the discussions that you're  
7           referring to among staff and the loss  
8           in terms of that particular unit that  
9           you're talking about, all of that came  
10          about as a result of my client being  
11          suspended and then terminated.

12          Right?

13          A.       I would say it came about as a  
14          result of that conversation. The  
15          suspension and termination are a  
16          result of that violation, so ---.

17          Q.       Correct. But had the county  
18          not --- not suspended my client or  
19          terminated him because of his  
20          conversation, these disruptions would  
21          likely not have happened.

22          Correct?

23                   ATTORNEY GRIESER:

24                   Objection. Asked and  
25                   answered. He said that it was

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1           immediate as soon as he picked  
2           up the phone. There were  
3           disruptions among the  
4           administration. He --- he  
5           really needs to get to this ---  
6           to this board. So I --- I ---.

7                     THE WITNESS:

8                     Yeah, I can circle back.

9                     ATTORNEY MANSOUR:

10                    That's my last question.  
11                    So ---.

12                    THE WITNESS:

13                    Okay.

14                    ATTORNEY GRIESER:

15                    No, I will have follow  
16                    up questions. So we'll need  
17                    you back, Director Kratz.

18                    THE WITNESS:

19                    Okay.

20                    So just let me know.  
21                    I'll be a prison board and then  
22                    I'll come back. So let me  
23                    know.

24                    ATTORNEY GRIESER:

25                    And just keep in mind

1           that because you are  
2           technically still on the stand  
3           in quotes, you and I and Dara  
4           cannot speak about your  
5           testimony at all.

6                     THE WITNESS:

7                     Understood. Very well.

8                     ATTORNEY MANSOUR:

9                     Okay.

10                    Thank you, Mr. Kratz.

11                    THE WITNESS:

12                    Thank you.

13                    ATTORNEY GRIESER:

14                    Thanks.

15                    \* \* \* \* \*

16                    DEPOSITION CONCLUDED AT 12:46 P.M.

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1 COMMONWEALTH OF PENNSYLVANIA )

2 COUNTY OF PHILADELPHIA )

3 CERTIFICATE

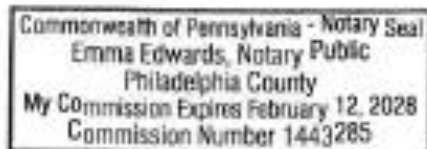
4 I, Emma Edwards, a Notary Public in  
5 and for the Commonwealth of Pennsylvania, do  
6 hereby certify:

7 That the witness, David Kratz, whose  
8 testimony appears in the foregoing deposition,  
9 was duly sworn by me on February 12, 2025 and  
10 that the transcribed deposition of said  
11 witness is a true record of the testimony  
12 given by said witness;

13 That the proceeding is herein recorded  
14 fully and accurately;

15 That I am neither attorney nor counsel  
16 for, nor related to any of the parties to the  
17 action in which these depositions were taken,  
18 and further that I am not a relative of any  
19 attorney or counsel employed by the parties  
20 hereto, or financially interested in this  
21 action.

22 Dated the 17 day of February, 2025





Emma Edwards,

Court Reporter